



## CITY COUNCIL REGULAR MEETING

City Council Chambers, City Hall  
Monday, August 21, 2023 at 6:00 PM

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### AGENDA

**UPDATED 8.18.2023**

Peyton Jamison, Mayor

#### CITY COUNCIL

##### DISTRICT 1

Andrea Verhoff – Post 1  
Carol Cookerly – Post 2

##### DISTRICT 2

Juliette Johnson – Post 1  
Paul Moore – Post 2

##### DISTRICT 3

Jan C. Jacobus – Post 1  
Rick Mohrig – Post 2

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#### INVOCATION

- 1) **CALL TO ORDER**
- 2) **ROLL CALL**
- 3) **PLEDGE OF ALLEGIANCE** (Led by Mayor Peyton Jamison)
- 4) **APPROVAL OF MEETING AGENDA** (Add or remove items from the agenda)  
**(Agenda Item No. 23-210)**
- 5) **PUBLIC COMMENT (General) –**
- 6) **CONSENT AGENDA**
  - A. Approval of the August 7, 2023 Regular City Council Meeting Minutes.  
**(Agenda Item No. 23-211)**  
*(Tammy Lowit, City Clerk)*
  - B. Approval of the August 14, 2023 Work Session Meeting Minutes.  
**(Agenda Item No. 23-212)**  
*(Tammy Lowit, City Clerk)*
  - C. Approval of the August 14, 2023 Special Called City Council Meeting Minutes.  
**(Agenda Item No. 23-213)**  
*(Tammy Lowit, City Clerk)*

- D. Approval of the Financial Statements & Investment Report for the Period 9 – June 2023.  
**(Agenda Item No. 23-214)**  
*(Karen Ellis, Finance Director)*
- E. Approval of a Construction Services Agreement Between the City of Milton and Prudencio Hernandez Romero dba Exceed Tree Care for the Cleanup of Fallen Trees at Providence Park, Birmingham Park, and the Milton City Park and Preserve.  
**(Agenda Item No. 23-215)**  
*(Tom McKlveen, Parks and Recreation Director)*
- F. Approval of an Order Form Agreement with Addendum No. 1 between Fulton Communications, Inc. dba Vertical Communications, Inc. and the City of Milton for Implementation of a Hosted VOIP Phone Services.  
**(Agenda Item No. 23-216)**  
*(Ashley Smith, IT Director)*
- G. Approval of MSA between GoTo Communications, Inc. and the City of Milton for hosted VOIP Phone Services.  
**(Agenda Item No. 23-217)**  
*(Ashley Smith, IT Director)*
- H. Approval of Professional Service Agreement between the City of Milton and William F. Ross dba ROSS+associates for the Preparation of the Impact Fee Program Amendment.  
**(Agenda Item No. 23-218)**  
*(Robert Buscemi, Community Development Director)*
- I. Approval of a Professional Services Agreement between the City of Milton and It's My Party, LLC for Rental Equipment at Crabapple Fest 2023.  
**(Agenda Item No. 23-219)**  
*Robert Buscemi, Community Development Director)*

J. Approval of Subdivision Plats and Revisions.

Name of Development / Location	Action	Comments / # lots	Total Acres	Density
1. <b>Lot 9 Canterbury on the Lake – Ron Barber</b> 210 Canterbury Lane LL 457 & 480 Dist. 2 Sect. 2	Minor Plat	Subdivide the parcel into two lots. Lot 9-A will contain 4.187 acres and Lot 9-B will contain 3.863 acres.	<b>8.05</b> Acres	<b>0.25</b> Lots/Acre

**(Agenda Item No. 23-220)**

*(Robert Buscemi, Community Development Director)*

**7) REPORTS AND PRESENTATIONS**

- A. Proclamation Recognizing Dizzy Dean World Series Champions from Hopewell Baseball.  
*(Mayor Peyton Jamison)*
- B. Discussion of Short Term Work Program Projects.
  - 1. Arnold Mill Small Area Plan
  - 2. Larger Lot Zoning Categories*(Robert Buscemi, Community Development Director)*
- C. Discussion of the Milton City Park & Preserve (MCP) Concept Plans for Passive Park Improvements.  
*(Sara Leaders, Public Works Director)*

**8) FIRST PRESENTATION**

- A. Consideration of **RZ23-02** - A Text Amendment with Respect to Notification Requirements for Various Types of Land Use Permits and Variance Requests and Other Procedural Updates to Comply with Latest Amendment to Georgia State Zoning Procedures Law in Chapter 64, Zoning of the City of Milton City Code.

**(Agenda Item No. 23-221)**

*(Robert Buscemi, Community Development Director)*

- B. Consideration of **RZ23-03** - A Text Amendment with Respect to the Following Alcohol-Related Uses of Limited Food Service Restaurant and Limited Tap Establishment within Chapter 64, Zoning of the City of Milton City Code.

**(Agenda Item No. 23-222)**

*(Robert Buscemi, Community Development Director)*

**9) PUBLIC HEARING**

- A. Consideration of a Resolution Authorizing the Transmittal of a Draft Capital Improvements Element (CIE) 2023 Annual Update Relating to the City's Impact Fee Program to the Atlanta Regional Commission (ARC) for Regional and State Review.  
**(Agenda Item No. 23-223)**  
*(Robert Buscemi, Community Development Director)*
- B. Consideration of the Issuance of an Alcohol Beverage License to BevShop LLC dba Beverage Shop, 13800 Highway 9 North Suite S, Milton, Georgia 30004.  
**(Agenda Item No. 23-224)**  
*(Karen Ellis, Finance Director)*
- C. Consideration of the Issuance of an Alcohol Beverage License to Whitetail Bicycles Inc., 1885 Heritage Walk, Milton, Georgia 30004.  
**(Agenda Item No. 23-225)**  
*(Karen Ellis, Finance Director)*
- D. Consideration of an Ordinance of the Mayor and Council of the City of Milton, Georgia, to Establish the Ad Valorem Tax Rate of the City of Milton for Fiscal Year 2024; and for Other Purposes..  
**(Agenda Item No. 23-202)**  
*(Bernadette Harvill, Deputy City Manager)*

**10) ZONING AGENDA****11) UNFINISHED BUSINESS**

- A. Consideration of an Ordinance of the Mayor and Council of the City of Milton, Georgia, to Establish the Ad Valorem Tax Rate of the City of Milton for Fiscal Year 2024; and for Other Purposes..  
**(Agenda Item No. 23-202)**  
*(Bernadette Harvill, Deputy City Manager)*

**12) NEW BUSINESS**

A. Consideration of Final Plats.

Name of Development / Location	Action	Comments / # lots	Total Acres	Density
<b>Whisper Woods</b> New Providence Road LL 847 & 848 Dist. 2 Sec. 2	<b>Final Plat</b>	5 Single-Family Lots	<b>11.492</b> Acres	<b>0.44</b> Lots /Acre

**(Agenda Item No. 23-226)**

*(Robert Buscemi, Community Development Director)*

B. Consideration of a Resolution of the City of Milton, Georgia Authorizing Issuance of Seven-Day Notice of Termination of Consulting Contract with Vernetta Keith Nuriddin and Termination of Said Contract and Approving Consulting Contract with Lavana White.

**(Agenda Item No. 23-227)**

*(Steven Krokoff, City Manager)*

**13) MAYOR AND COUNCIL REPORTS**

**14) STAFF REPORTS**

**15) EXECUTIVE SESSION** (if needed)

**16) ADJOURNMENT**  
**(Agenda Item No. 23-228)**

*Persons needing special accommodations in order to participate in any City meeting should call 678.242.2500.*

**CITY OF MILTON - NOTES TO THE FINANCIAL STATEMENTS**  
**For the Period Ending June 30, 2023**



DocuSigned by:  
 Section 6, Item D.

DocuSigned by:

Steven Krokoff  
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**Financial Overview / Highlights**

**GENERAL FUND**

- ▶ Total revenue collections are \$30,549,487 , 4.18% above anticipated year to date.
- ▶ Total expenditures to-date are \$28,685,156 , 8.28% less than expected year to date.

**Variance Analysis**

Account Name	YTD Actual	Annual Budget	% of Budget	Explanation
<b>Revenues</b>				
Franchise Fees	\$1,207,093	\$2,252,442	53.59%	Payments rec'd quarterly - on target
Business & Occupation Tax	\$982,788	\$856,646	114.73%	Trending above budget estimates
Insurance Premium Tax	\$0	\$3,400,000	0.00%	Normal, collected in September
Alcohol Beverage Licenses	\$227,072	\$223,950	101.39%	Trending above budget estimates
Interest Earnings	\$944,083	\$1,000,240	94.39%	Above interest rate projected in budget
<b>Expenditures</b>				
Elections	\$4,876	\$0	0.00%	New department for FY2023

**CAPITAL PROJECTS FUND**

Expenditures within this fund continue to occur on a project-by-project basis. With a total project expenditure budget of \$48,799,748, capital expenditures-to-date total \$9,129,550 - figures have been updated to reflect retainage payable booked to FY 2022 in accordance with generally accepted accounting principles (GAAP).

**OTHER MISCELLANEOUS NOTES**

Please note, certain variances are the result of timing of revenues received/expenditures paid versus when they were anticipated and may not result in the need for an amendment.

\_\_\_\_\_  
 Karen Ellis, Finance Director

\_\_\_\_\_  
 Steve Krokoff, City Manager

**STATEMENT OF REVENUES & EXPENDITURES**  
**General Fund**  
 For the Period Ending June 30, 2023

Revenues	Annual Budget	Current Month			Year-to-Date		
		Actual	Budgeted	Variance over/(under)	Actual	Budgeted	Variance over/(under)
Property Tax	14,269,426	18,790	77,445	(58,655)	14,033,562	14,037,204	(3,642)
Motor Vehicle Tax	2,004,715	230,484	151,854	78,631	1,427,443	1,396,571	30,873
Intangible Tax	400,000	26,647	54,211	(27,564)	199,807	182,896	16,911
Real Estate Transfer Tax	135,068	16,464	14,583	1,881	90,871	76,665	14,206
Franchise Fees	2,252,442	169	5,253	(5,084)	1,207,093	1,161,744	45,348
Local Option Sales Tax	12,538,381	1,143,061	985,217	157,844	8,697,852	8,321,815	376,037
Alcohol Beverage Excise Tax	354,543	30,957	42,687	(11,730)	286,575	228,964	57,611
Fireworks Excise Tax	250	-	-	-	-	-	-
Business & Occupation Tax	856,646	6,579	8,652	(2,073)	982,788	818,697	164,091
Insurance Premium Tax	3,400,000	-	-	-	-	-	-
Financial Institution Tax	50,000	-	-	-	48,792	50,000	(1,208)
Penalties & Interest	46,200	1,690	3,848	(2,159)	48,522	34,636	13,886
Alcohol Beverage Licenses	223,950	5,282	4,609	673	227,072	212,352	14,720
Other Non-Business Permits/Licenses	34,945	2,184	2,682	(498)	26,465	26,822	(357)
Zoning & Land Disturbance Permits	215,175	15,787	17,924	(2,137)	147,102	161,317	(14,215)
Building Permits	1,050,660	125,042	102,097	22,944	698,993	729,334	(30,341)
Intergovernmental Revenue	5,000	-	-	-	-	-	-
Other Charges for Service	614,505	76,045	86,571	(10,527)	624,524	494,490	130,034
Municipal Court Fines	640,000	61,615	67,335	(5,720)	483,986	441,991	41,995
Interest Earnings	1,000,240	192,741	16,680	176,061	944,083	683,507	260,577
Contributions & Donations	45,950	-	-	-	15,062	45,950	(30,888)
Other Revenue	272,153	31,915	20,171	11,743	330,540	211,542	118,998
Other Financing Sources	75,500	6,700	1,666	5,034	28,354	6,664	21,690
<b>Total Revenues</b>	<b>40,485,749</b>	<b>1,992,151</b>	<b>1,663,487</b>	<b>328,664</b>	<b>30,549,487</b>	<b>29,323,161</b>	<b>1,226,325</b>

Operating Expenditures	Annual Budget	Current Month			Year-to-Date		
		Actual	Budgeted	Variance over/(under)	Actual	Budgeted	Variance over/(under)
Mayor and Council	162,948	16,647	15,781	866	108,207	125,523	(17,315)
City Clerk	186,119	15,684	15,143	541	126,125	134,098	(7,972)
City Manager	853,852	91,629	88,675	2,954	654,242	664,253	(10,011)
Elections	-	4,853	-	4,853	4,876	-	4,876
General Administration	58,349	5,263	1,715	3,548	53,091	54,932	(1,840)
Finance	847,368	71,738	76,718	(4,979)	559,933	664,107	(104,174)
Legal	500,000	49,082	32,904	16,179	350,938	370,042	(19,104)
Information Services	1,600,944	102,111	136,107	(33,996)	940,288	1,229,843	(289,555)
Human Resources	482,822	40,162	41,114	(952)	327,589	399,633	(72,044)
Risk Management	327,645	28,570	8,977	19,593	302,591	322,983	(20,392)
General Government Buildings	396,226	18,906	26,199	(7,293)	190,847	312,453	(121,606)
Communications	458,088	36,599	42,688	(6,089)	253,619	340,550	(86,931)
Municipal Court	429,086	46,066	39,421	6,645	300,616	329,329	(28,713)
Police	6,969,574	623,690	682,698	(59,008)	4,755,324	5,319,856	(564,532)
Fire	9,481,828	939,960	931,817	8,142	6,762,323	7,235,533	(473,210)
Public Works	3,107,968	278,149	287,726	(9,577)	2,007,612	2,324,283	(316,670)
Parks & Recreation (Active)	1,818,792	232,898	213,974	18,923	1,179,596	1,378,680	(199,084)
Passive Parks/Greenspace	241,456	12,812	12,650	163	99,856	188,892	(89,035)
Community Development	2,353,698	214,965	240,911	(25,946)	1,612,363	1,785,452	(173,089)
Operating Transfers to Other Funds	12,405,147	1,434,677	1,434,677	-	8,095,117	8,095,117	-
Operating Reserve	181,334	-	-	-	-	-	-
<b>Total expenditures</b>	<b>42,863,244</b>	<b>4,264,461</b>	<b>4,329,894</b>	<b>(65,433)</b>	<b>28,685,156</b>	<b>31,275,558</b>	<b>(2,590,402)</b>
<b>Net Income/(Loss)</b>	<b>(2,377,495)</b>	<b>(2,272,310)</b>			<b>1,864,331</b>		

Fund Balance - Beginning	13,748,281				13,748,281		
Fund Balance - Ending	11,370,786				<b>15,612,612</b>		

**City of Milton**  
**Special Events Fund**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual**  
**For the Period Ended June 30, 2023**

	<u>Original Budgeted Amounts</u>	<u>Amended Budgeted Amounts</u>	<u>Current Period Actuals</u>	<u>Year-to-Date Actuals</u>	<u>Variance with Final Budget - Positive (Negative)</u>
<b>REVENUES</b>					
Crabapple Fest Vendor Fee	\$ 15,000	\$ 15,000	\$ -	\$ 19,215	\$ 4,215
Interest Revenues	-	-	0	7	7
Crabapple Fest Sponsor	7,500	7,500	-	7,500	-
Mayor's Run Sponsor	-	-	2,500	2,500	2,500
Other Misc Revenue/T-Shirt Sales	-	-	-	-	-
Total revenues	<u>\$ 22,500</u>	<u>\$ 22,500</u>	<u>\$ 2,500</u>	<u>\$ 29,222</u>	<u>\$ 6,722</u>
<b>EXPENDITURES</b>					
Current:					
Special Events	\$ 130,846	\$ 130,846	\$ 9,066	\$ 100,065	\$ 30,781
Total Expenditures	<u>\$ 130,846</u>	<u>\$ 130,846</u>	<u>\$ 9,066</u>	<u>\$ 100,065</u>	<u>\$ 30,781</u>
<b>OTHER FINANCING SOURCES (USES)</b>					
Transfers in from General Fund	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers in from Hotel/Motel Tax Fund	55,000	55,000	5,781	42,550	(12,450)
Total other financing sources and uses	<u>\$ 55,000</u>	<u>\$ 55,000</u>	<u>\$ 5,781</u>	<u>\$ 42,550</u>	<u>\$ (12,450)</u>
Net change in fund balances	<u>\$ (53,346)</u>	<u>\$ (53,346)</u>		<u>\$ (28,293)</u>	
Fund balance - beginning	110,389	110,389		110,389	
Fund balance - ending	<u><u>\$ 57,043</u></u>	<u><u>\$ 57,043</u></u>		<u><u>\$ 82,097</u></u>	



**City of Milton**  
**Confiscated Assets Fund**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual**  
**For the Period Ended June 30, 2023**

	<u>Original Budgeted Amounts</u>	<u>Amended Budgeted Amounts</u>	<u>Current Period Actuals</u>	<u>Year-to-Date Actuals</u>	<u>Variance with Final Budget - Positive (Negative)</u>
<b>REVENUES</b>					
Cash Confiscations/State Funds	\$ -	\$ -	\$ -	\$ -	\$ -
Cash Confiscations/Fed Funds	-	-	-	-	-
Interest Revenues/State Funds	-	-	-	-	-
Interest Revenues/Federal Funds	-	-	1	6	6
Total revenues	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1</u>	<u>\$ 6</u>	<u>\$ 6</u>
<b>EXPENDITURES</b>					
Current:					
Police	\$ -	\$ 16,914	\$ -	\$ 22,625	\$ (5,711)
Total Expenditures	<u>\$ -</u>	<u>\$ 16,914</u>	<u>\$ -</u>	<u>\$ 22,625</u>	<u>\$ (5,711)</u>
<b>OTHER FINANCING SOURCES (USES)</b>					
Transfers in from General Fund	\$ -	\$ -	\$ -	\$ -	\$ -
Total other financing sources and uses	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Net change in fund balances	\$ -	\$ (16,914)		\$ (22,619)	
Fund balance - beginning	79,485	79,485		79,485	
Fund balance - ending	<u><u>\$ 79,485</u></u>	<u><u>\$ 62,571</u></u>		<u><u>\$ 56,865</u></u>	

**City of Milton**  
**E-911 Fund**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual**  
**For the Period Ended June 30, 2023**

	<u>Original Budgeted Amounts</u>	<u>Amended Budgeted Amounts</u>	<u>Current Period Actuals</u>	<u>Year-to-Date Actuals</u>	<u>Variance with Final Budget - Positive (Negative)</u>
<b>REVENUES</b>					
E-911 Fees	\$ 1,200,000	\$ 1,200,000	\$ 80,362	\$ 587,517	\$ (612,483)
Total revenues	<u>\$ 1,200,000</u>	<u>\$ 1,200,000</u>	<u>\$ 80,362</u>	<u>\$ 587,517</u>	<u>\$ (612,483)</u>
<b>EXPENDITURES</b>					
Current:					
Public Safety	\$ 1,200,000	\$ 1,200,000	\$ 80,362	\$ 587,517	\$ 612,483
Total Expenditures	<u>\$ 1,200,000</u>	<u>\$ 1,200,000</u>	<u>\$ 80,362</u>	<u>\$ 587,517</u>	<u>\$ 612,483</u>
Net change in fund balances	\$ -	\$ -		\$ -	
Fund balance - beginning	-	-		-	
Fund balance - ending	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>		<u><u>\$ -</u></u>	

City of Milton  
 Operating Grant Fund  
 Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual  
 For the Period Ended June 30, 2023

	Original Budgeted Amounts	Amended Budgeted Amounts	Current Period Actuals	Year-to-Date Actuals	variance with Final Budget - Positive (Negative)
<b>REVENUES</b>					
Intergovernmental Revenues					
GA Supplement Grant	\$ -	\$ -	\$ -	\$ -	\$ -
CJCC	-	-	-	51,143	51,143
Interest Revenues	-	-	0	5	5
Total revenues	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 0</u>	<u>\$ 51,148</u>	<u>\$ 51,148</u>
<b>EXPENDITURES</b>					
Current:					
General Administration	\$ -	\$ -	\$ -	\$ -	-
Police	-	-	-	11,400	11,400
Total Expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 11,400</u>	<u>\$ 11,400</u>
Excess of revenues over expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 0</u>	<u>\$ 39,748</u>	<u>\$ 39,748</u>
<b>OTHER FINANCING SOURCES (USES)</b>					
Transfers Out to General Fund	\$ -	\$ -	\$ -	\$ -	\$ -
Total other financing sources and uses	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Net change in fund balances	<u>\$ -</u>	<u>\$ -</u>		<u>\$ 39,748</u>	
Fund balances - beginning	65,370	65,370		65,370	
Fund balances - ending	<u><u>\$ 65,370</u></u>	<u><u>\$ 65,370</u></u>		<u><u>\$ 105,118</u></u>	

**City of Milton**  
**American Rescue Plan (ARP) Act of 2021 Fund**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual**  
**For the Period Ended June 30, 2023**

	<u>Original Budgeted Amounts</u>	<u>Amended Budgeted Amounts</u>	<u>Current Period Actuals</u>	<u>Year-to-Date Actuals</u>	<u>Variance with Final Budget - Positive (Negative)</u>
<b>REVENUES</b>					
Intergovernmental Revenues					
American Rescue Plan	\$ -	\$ -	\$ -	\$ -	\$ -
Interest Revenues	-	-	1	22	22
Realized Gain or Loss (GA Fund 1)	-	-	15,294	114,645	114,645
Total revenues	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 15,295</u>	<u>\$ 114,667</u>	<u>\$ 114,667</u>
<b>EXPENDITURES</b>					
Current:					
City Clerk	\$ -	\$ -	\$ -	\$ -	\$ -
City Manager	-	-	-	-	-
Finance	-	-	-	-	-
Communications	-	-	-	-	-
Court	-	-	-	-	-
Police	-	-	-	-	-
Fire	-	-	-	-	-
Public Works	-	-	-	-	-
Parks & Recreation	-	-	-	-	-
Community Development	-	-	-	-	-
Total Expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Excess of revenues over expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 15,295</u>	<u>\$ 114,667</u>	<u>\$ 114,667</u>
<b>OTHER FINANCING SOURCES (USES)</b>					
Transfers Out to Capital Projects Fund	\$ -	\$ -	\$ -	\$ -	\$ -
Total other financing sources and uses	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Net change in fund balances	\$ -	-		\$ 114,667	
Fund balances - beginning	35,064	35,064		35,064	
Fund balances - ending	<u>\$ 35,064</u>	<u>\$ 35,064</u>		<u>\$ 149,731</u>	

**\* Although the City has received \$14,783,224 in ARPA funds through FY2022, only \$10,925,003 has been recognized for eligible expenditures. As additional expenditures arise towards the remaining \$3,858,221, a budget amendment will be presented to council for their approval.**

**City of Milton**  
**Hotel/Motel Tax Fund**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual**  
**For the Period Ended June 30, 2023**

	Original Budgeted Amounts	Amended Budgeted Amounts	Current Period Actuals	Year-to-Date Actuals	variance with Final Budget - Positive (Negative)
<b>REVENUES</b>					
Taxes					
Hotel/Motel Taxes	\$ 55,000	\$ 55,000	\$ 5,781	\$ 42,550	\$ (12,450)
Total revenues	<u>\$ 55,000</u>	<u>\$ 55,000</u>	<u>\$ 5,781</u>	<u>\$ 42,550</u>	<u>\$ (12,450)</u>
<b>OTHER FINANCING SOURCES (USES)</b>					
Transfers out to Special Events Fund	\$ 55,000	\$ 55,000	\$ 5,781	42,550	\$ 12,450
Total other financing sources and uses	<u>\$ 55,000</u>	<u>\$ 55,000</u>	<u>\$ 5,781</u>	<u>\$ 42,550</u>	<u>\$ 12,450</u>
Net change in fund balances	\$ -	-		\$ -	
Fund balance - beginning	-	-		-	
Fund balance - ending	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>		<u><u>\$ -</u></u>	

**City of Milton**  
**Capital Project Fund**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual**  
**For the Period Ended June 30, 2023**

	<u>Original Budgeted Amounts</u>	<u>Amended Budgeted Amounts</u>	<u>Current Period Actuals</u>	<u>Year-to-Date Actuals</u>	<u>Year-to-Date Actuals + Encumbrances</u>	<u>Variance with Final Budget - Positive (Negative)</u>
<b>REVENUES</b>						
Charges for Service						
Infrastructure Maintenance Fee	\$ 110,000	\$ 110,000	\$ -	\$ 91,951	\$ 91,951	\$ (18,049)
Infrastructure Maint Penalty & Interest	-	-	-	-	-	-
Fulton County IGA Funding	-	481,553	-	481,553	481,553	-
Forsyth County IGA Funding	-	-	-	-	-	-
City of Roswell IGA Funding	250,000	250,000	-	-	-	(250,000)
Tree Recompense	-	-	-	594	594	594
Landfill Use Fees	-	-	-	-	-	-
Other Misc Revenue	-	-	-	50	50	50
Interest Revenue	-	594	38	1,660	1,660	1,066
Insurance Proceeds/Public Works	-	-	-	86,637	86,637	86,637
Total revenues	<u>\$ 360,000</u>	<u>\$ 842,147</u>	<u>\$ 38</u>	<u>\$ 662,445</u>	<u>\$ 662,445</u>	<u>\$ (179,702)</u>
<b>EXPENDITURES</b>						
Capital Outlay						
Finance	\$ 61,665	\$ 61,665	\$ -	\$ -	\$ -	\$ 61,665
Information Services	54,839	54,839	-	18,024	18,024	36,815
General Govt Bldg	67,293	67,293	-	24,087	30,887	36,406
Police	739,734	739,734	-	498,879	686,687	53,047
Fire	5,229,092	8,669,788	13,036	2,237,882	2,695,688	5,974,099
Public Works	11,395,814	11,395,814	7,160	2,917,274	3,509,321	7,886,492
Parks & Recreation (Active)	22,149,117	22,149,117	-	3,250,349	3,296,463	18,852,654
Passive Parks/Greenspace	4,714,175	4,749,091	-	16,850	49,013	4,700,077
Community Development	873,234	912,408	3,392	166,205	232,727	679,681
Total Capital Outlay	<u>\$ 45,284,962</u>	<u>\$ 48,799,748</u>	<u>\$ 23,588</u>	<u>\$ 9,129,550</u>	<u>\$ 10,518,811</u>	<u>\$ 38,280,937</u>
Excess of revenues over expenditures	<u>\$ (44,924,962)</u>	<u>\$ (47,957,601)</u>	<u>\$ (23,550)</u>	<u>\$ (8,467,105)</u>	<u>\$ (9,856,366)</u>	<u>\$ (38,460,639)</u>
<b>OTHER FINANCING SOURCES (USES)</b>						
Transfers in from General Fund	\$ 7,129,426	\$ 10,570,122	\$ 1,282,258	\$ 6,723,348	\$ 6,723,348	\$ (3,846,774)
Transfers in from ARPA Fund	2,188,167	2,188,167	-	-	-	(2,188,167)
Transfer out to TSPLOST Fund	(250,000)	(769,046)	(519,046)	(519,046)	(519,046)	250,000
Contingencies	(212,668)	(212,668)	-	-	-	212,668
Total other financing sources and uses	<u>\$ 8,854,925</u>	<u>\$ 11,776,575</u>	<u>\$ 763,212</u>	<u>\$ 6,204,302</u>	<u>\$ 6,204,302</u>	<u>\$ (5,572,273)</u>
Net change in fund balances	<u>\$ (36,070,037)</u>	<u>\$ (36,181,026)</u>	<u>739,662</u>	<u>(2,262,803)</u>	<u>(3,652,064)</u>	
Fund balance - beginning	36,181,506	36,181,506		36,181,506	36,181,506	
Fund balance - ending	<u>\$ 111,470</u>	<u>\$ 481</u>		<u>\$ 33,918,703</u>	<u>\$ 32,529,442</u>	

**City of Milton**  
**Greenspace Bond Fund**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual**  
**For the Period Ended June 30, 2023**

	<u>Original Budgeted Amounts</u>	<u>Amended Budgeted Amounts</u>	<u>Current Period Actuals</u>	<u>Year-to-Date Actuals</u>	<u>Year-to-Date Actuals + Encumbrances</u>	<u>Variance with Final Budget - Positive (Negative)</u>
<b>REVENUES</b>						
Real Property Tax-Current Year	\$ 1,659,981	\$ 1,659,981	\$ 1,969	\$ 1,662,614	\$ 1,662,614	\$ 2,633
Public Utility Tax-Current Year	11,900	11,900	-	12,341	12,341	441
Real Property Tax-Prior Year	7,000	7,000	-	10,964	10,964	3,964
Personal Property Tax-Current Year	19,309	19,309	4	16,475	16,475	(2,834)
Motor Vehicle Tax	2,323	2,323	324	3,191	3,191	868
Personal Property Tax-Prior Year	3,000	3,000	-	200	200	(2,800)
Penalties & Interest - Real Property	-	-	58	3,899	3,899	3,899
Penalties & Interest - Personal Property	-	-	0	153	153	153
Interest Revenue (Regions)	10,000	135,000	18,785	134,303	134,303	(697)
Interest Revenue (Truist)	-	-	0	38	38	38
Total revenues	<u>\$ 1,713,513</u>	<u>\$ 1,838,513</u>	<u>\$ 21,141</u>	<u>\$ 1,844,176</u>	<u>\$ 1,844,176</u>	<u>\$ 5,663</u>
<b>EXPENDITURES</b>						
Capital Outlay						
Passive Parks/Greenspace	\$ 5,064,748	\$ 5,211,904	\$ -	\$ -	\$ 12,000	\$ 5,199,904
Fiscal Agent's Fees	1,306	1,306	-	1,306	1,306	(0)
Bond Principal	985,000	985,000	-	985,000	985,000	-
Bond Interest	724,375	724,375	-	724,375	724,375	-
Total Capital Outlay	<u>\$ 6,775,429</u>	<u>\$ 6,922,585</u>	<u>\$ -</u>	<u>\$ 1,710,681</u>	<u>\$ 1,722,681</u>	<u>\$ 5,199,904</u>
Excess of revenues over expenditures	<u>\$ (5,061,916)</u>	<u>\$ (5,084,072)</u>	<u>\$ 21,141</u>	<u>\$ 133,495</u>	<u>\$ 121,495</u>	<u>\$ (5,194,240)</u>
Net change in fund balances	<u>\$ (5,061,916)</u>	<u>(5,084,072)</u>		<u>\$ 133,495</u>	<u>\$ 121,495</u>	
Fund balance - beginning	<u>5,146,590</u>	<u>5,146,590</u>		<u>5,146,590</u>	<u>5,146,590</u>	
Fund balance - ending	<u>\$ 84,674</u>	<u>\$ 62,518</u>		<u>\$ 5,280,086</u>	<u>\$ 5,268,086</u>	

**City of Milton**  
**Transportation Local Option Sales Tax (TSPLOST) Fund**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual**  
**For the Period Ended June 30, 2023**

	<u>Original Budgeted Amounts</u>	<u>Amended Budgeted Amounts</u>	<u>Current Period Actuals</u>	<u>Year-to-Date Actuals</u>	<u>Year-to-Date Actuals + Encumbrances</u>	<u>Variance with Final Budget - Positive (Negative)</u>
<b>REVENUES</b>						
Transportation Local Option Sales Tax (I)	\$ -	\$ -	\$ -	\$ -	\$ -	-
Transportation Local Option Sales Tax (II)	7,500,000	7,500,000	718,182	5,681,750	5,681,750	(1,818,250)
City of Roswell IGA (TS2-2311)	-	-	10,577	10,577		
Interest Revenues (I)	-	-	-	32	32	32
Interest Revenues (II)	-	-	97	678	678	678
Realized Gain or Loss (GA Fund 1) (I)	150,000	150,000	82,227	616,390	616,390	466,390
Realized Gain or Loss (GA Fund 1) (II)	-	-	-	-	-	-
Total revenues	<u>\$ 7,650,000</u>	<u>\$ 7,650,000</u>	<u>\$ 811,084</u>	<u>\$ 6,309,426</u>	<u>\$ 6,298,849</u>	<u>\$ (1,351,151)</u>
<b>EXPENDITURES</b>						
Capital Outlay						
Public Works	\$ 37,370,523	\$ 37,370,523	\$ 249,880	\$ 2,127,326	\$ 6,463,024	\$ 30,907,500
Total Capital Outlay	<u>\$ 37,370,523</u>	<u>\$ 37,370,523</u>	<u>\$ 249,880</u>	<u>\$ 2,127,326</u>	<u>\$ 6,463,024</u>	<u>\$ 30,907,500</u>
Excess of revenues over expenditures	<u>\$ (29,720,523)</u>	<u>\$ (29,720,523)</u>	<u>\$ 561,204</u>	<u>\$ 4,182,100</u>	<u>\$ (164,174)</u>	<u>\$ (32,258,651)</u>
<b>OTHER FINANCING SOURCES (USES)</b>						
Transfers in from General Fund	\$ 180,000	\$ 180,000	\$ 15,000	\$ 135,000	\$ 135,000	\$ (45,000)
Transfers in from Capital Projects Fund	250,000	769,046	-	519,046	519,046	(250,000)
Transfers in from Capital Grant Fund	4,200,000	4,000,000	-	-	-	(4,000,000)
Total other financing sources and uses	<u>\$ 4,630,000</u>	<u>\$ 4,949,046</u>	<u>\$ 15,000</u>	<u>\$ 654,046</u>	<u>\$ 654,046</u>	<u>\$ (4,295,000)</u>
Net change in fund balances	<u>\$ (25,090,523)</u>	<u>\$ (24,771,478)</u>		<u>\$ 4,836,146</u>	<u>\$ 489,872</u>	
Fund balance - beginning	25,869,968	25,869,968		25,869,968	25,869,968	
Fund balance - ending	<u>\$ 779,445</u>	<u>\$ 1,098,490</u>		<u>\$ 30,706,114</u>	<u>\$ 26,359,840</u>	



**City of Milton**  
**Capital Grant Fund**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual**  
**For the Period Ended June 30, 2023**

	<u>Original Budgeted Amounts</u>	<u>Amended Budgeted Amounts</u>	<u>Current Period Actuals</u>	<u>Year-to-Date Actuals</u>	<u>Year-to-Date Actuals + Encumbrances</u>	<u>Variance with Final Budget - Positive (Negative)</u>
<b>REVENUES</b>						
Intergovernmental Revenues						
Assistance to Firefighters Grant	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Recreation Trail Program	4,160,130	4,160,130	-	-	-	(4,160,130)
Land & Water Conservation Grant	95,000	95,000	-	-	-	(95,000)
LMIG Funds	440,000	440,000	-	435,697	435,697	(4,303)
GA Urban Forestry Grant	-	24,000	-	-	-	(24,000)
Trail Connection to Big Creek Greenway	200,000	-	-	132,584	132,584	132,584
Interest Revenues	-	-	3	46	46	46
Total revenues	<u>\$ 4,895,130</u>	<u>\$ 4,719,130</u>	<u>\$ 3</u>	<u>\$ 568,327</u>	<u>\$ 568,327</u>	<u>\$ (4,150,803)</u>
<b>EXPENDITURES</b>						
Capital Outlay						
Unallocated						
Public Works	\$ 866,934	\$ 896,934	\$ -	\$ -	\$ 426,934	\$ 470,000
Parks & Recreation	224,631	224,631	-	216,020	221,020	3,611
Total Capital Outlay	<u>\$ 1,091,564</u>	<u>\$ 1,121,564</u>	<u>\$ -</u>	<u>\$ 216,020</u>	<u>\$ 647,954</u>	<u>\$ 473,611</u>
Excess of revenues over expenditures	<u>\$ 3,803,565</u>	<u>3,597,565</u>	<u>3</u>	<u>352,307</u>	<u>(79,627)</u>	<u>(4,624,413)</u>
<b>OTHER FINANCING SOURCES (USES)</b>						
Transfers in from General Fund	\$ -	\$ 6,000	\$ -	\$ -	\$ -	\$ (6,000)
Transfer out to TSPLOST Fund	(4,200,000)	(4,000,000)	-	-	-	(4,000,000)
Total other financing sources and uses	<u>\$ (4,200,000)</u>	<u>\$ (3,994,000)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (4,006,000)</u>
Net change in fund balances	<u>\$ (396,435)</u>	<u>\$ (396,435)</u>		<u>\$ 352,307</u>	<u>\$ (79,627)</u>	
Fund balance - beginning	396,449	396,449		396,449	396,449	
Fund balance - ending	<u>\$ 15</u>	<u>\$ 15</u>		<u>\$ 748,757</u>	<u>\$ 316,823</u>	

**City of Milton**  
**Capital Projects Fund - Impact Fees**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual**  
**For the Period Ended June 30, 2023**

	<u>Original Budgeted Amounts</u>	<u>Amended Budgeted Amounts</u>	<u>Current Period Actuals</u>	<u>Year-to-Date Actuals</u>	<u>Year-to-Date Actuals + Encumbrances</u>	<u>Variance with Final Budget - Positive (Negative)</u>
<b>REVENUES</b>						
Admin Fund	\$ 40,000	\$ 40,000	\$ 2,486	\$ 17,173	\$ 17,173	\$ (22,827)
Law Enforcement Fund	15,500	15,500	1,043	7,304	7,304	(8,196)
Fire Fund	87,500	87,500	5,979	40,352	40,352	(47,148)
Road Fund	130,000	130,000	7,462	50,877	50,877	(79,123)
Park Fund	825,000	825,000	68,366	466,133	466,133	(358,868)
Interest Revenues/Admin Fund	-	-	0	5	5	5
Interest Revenues/Law Enforcement Fund	-	-	0	1	1	1
Interest Revenues/Fire Fund	-	-	0	5	5	5
Interest Revenues/Road Fund	-	-	0	6	6	6
Interest Revenues/Park Fund	-	-	1	54	54	54
Total revenues	<u>\$ 1,098,000</u>	<u>\$ 1,098,000</u>	<u>\$ 85,338</u>	<u>\$ 581,909</u>	<u>\$ 581,909</u>	<u>\$ (516,091)</u>
<b>EXPENDITURES</b>						
General Government Buildings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fire	87,500	87,500	-	87,500	87,500	-
Public Works	400,409	400,409	-	-	-	400,409
Parks & Recreation (Active)	2,124,141	2,124,141	-	1,882,668	2,011,730	112,412
Community Development	95,095	95,095	-	-	31,962	63,132
Total Capital Outlay	<u>\$ 2,707,145</u>	<u>\$ 2,707,145</u>	<u>\$ -</u>	<u>\$ 1,970,168</u>	<u>\$ 2,131,192</u>	<u>\$ 575,953</u>
Excess of revenues over expenditures	<u>\$ (1,609,145)</u>	<u>\$ (1,609,145)</u>	<u>\$ 85,338</u>	<u>\$ (1,388,258)</u>	<u>\$ (1,549,283)</u>	<u>\$ (1,092,044)</u>
<b>OTHER FINANCING SOURCES (USES)</b>						
Transfers Out to General Fund	\$ (40,000)	\$ (40,000)	\$ -	\$ -	\$ -	\$ (40,000)
Transfer Out to General Fund/Law Enforcement	(15,500)	(15,500)	-	-	-	(15,500)
Total other financing sources and uses	<u>\$ (55,500)</u>	<u>\$ (55,500)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (55,500)</u>
Net change in fund balances	<u>\$ (1,664,645)</u>	<u>\$ (1,664,645)</u>	<u>\$ -</u>	<u>\$ (1,388,258)</u>	<u>\$ (1,549,283)</u>	<u>\$ -</u>
Fund balance - beginning	1,664,645	1,664,645	-	1,664,645	1,664,645	-
Fund balance - ending	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 276,386</u>	<u>\$ 115,362</u>	<u>\$ -</u>

**City of Milton**  
**Capital Projects Fund - Revenue Bond**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual**  
**For the Period Ended June 30, 2023**

	Original Budgeted Amounts	Amended Budgeted Amounts	Current Period Actuals	Year-to-Date Actuals	Year-to-Date Actuals + Encumbrances	Variance with Final Budget - Positive (Negative)
<b>REVENUES</b>						
Interest Revenues (Regions)	\$ -	\$ -	\$ 8,328	\$ 63,803	\$ 63,803	\$ 63,803
Interest Revenues (Trust)	-	-	-	3	3	3
Total revenues	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 8,328</u>	<u>\$ 63,806</u>	<u>\$ 63,806</u>	<u>\$ 63,806</u>
<b>EXPENDITURES</b>						
Capital Outlay						
Fire	\$ 2,697,997	\$ 2,697,997	\$ 1,509	\$ 2,621,135	\$ 2,737,012	\$ (39,015)
Bond Principal	850,000	850,000	-	850,000	850,000	-
Bond Interest	797,219	797,219	387,984	797,219	797,219	0
Fiscal Agent's Fees	1,807	1,807	-	1,806	1,806	1
Total Capital Outlay	<u>\$ 4,347,023</u>	<u>\$ 4,347,023</u>	<u>\$ 389,493</u>	<u>\$ 4,270,160</u>	<u>\$ 4,442,675</u>	<u>\$ (95,652)</u>
Excess of revenues over expenditures	<u>\$ (4,347,023)</u>	<u>\$ (4,347,023)</u>	<u>\$ (381,165)</u>	<u>\$ (4,206,354)</u>	<u>\$ (4,378,869)</u>	<u>\$ 159,458</u>
<b>OTHER FINANCING SOURCES (USES)</b>						
Transfers in from General Fund	<u>\$ 1,649,025</u>	<u>\$ 1,649,025</u>	<u>\$ 137,419</u>	<u>\$ 1,236,769</u>	<u>\$ 1,236,769</u>	<u>\$ (412,256)</u>
Total other financing sources and uses	<u>\$ 1,649,025</u>	<u>\$ 1,649,025</u>	<u>\$ 137,419</u>	<u>\$ 1,236,769</u>	<u>\$ 1,236,769</u>	<u>\$ (412,256)</u>
Net change in fund balances	<u>\$ (2,697,998)</u>	<u>\$ (2,697,998)</u>		<u>\$ (2,969,586)</u>	<u>\$ (3,142,100)</u>	
Fund balance - beginning	<u>2,707,195</u>	<u>2,707,195</u>		<u>2,707,195</u>	<u>2,707,195</u>	
Fund balance - ending	<u><u>\$ 9,197</u></u>	<u><u>\$ 9,197</u></u>		<u><u>\$ (262,390)</u></u>	<u><u>\$ (434,905)</u></u>	

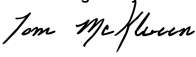
**City of Milton  
Investment Portfolio  
For the Period Ending June 30, 2023**

	Amount	Percent	Yield
Money Market - HomeTrust Bank	5,467,228	8%	4.99%
GA Fund 1	40,772,972	59%	5.12%
GA Fund 1 (ARPA)	3,649,079	5%	5.12%
GA Fund 1 (TSPLOST)	19,619,270	28%	5.12%
<b>Grand Total Investment Portfolio</b>	<b>69,508,549</b>	<b>100%</b>	

	General Fund		ARPA Fund		TSPLOST Fund	
	Current Month	YTD	Current Month	YTD	Current Month	YTD
Interest earned	219,855	1,143,980	15,294	114,666	82,325	617,099
Budgeted interest	94,603	851,430	-	-	12,500	112,500
Variance over/(under)	125,252	292,550	15,294	114,666	69,825	504,599
 FY2023 amended	 1,135,240		 -		 150,000	

**STAFF MEMO:**  
**FINANCIAL**

**TO:** Honorable Mayor and City Council Members  
**FROM:** Tom McKlveen, Parks & Recreation Director  
**DATE:** Submitted on August 10, 2023 for the Monday, August 21, 2023 Regular City Council Meeting

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**AGENDA ITEM:** Approval of a Construction Services Agreement Between the City of Milton and Prudencio Hernandez Romero dba Exceed Tree Care for the Cleanup of Fallen Trees at Providence Park, Birmingham Park, and the Milton City Park and Preserve.

**PROJECT DESCRIPTION**

On July 20, 2023 a large storm moved through the North Atlanta area, causing many trees to fall within the park system. Staff quickly responded using our on-call contractors at the parks to remediate the trees that affected daily park utilization, such as trails or active components.

For the other fallen trees that were not as time sensitive to remediate, staff went out to bid as a cost saving effort. This contract addresses some of the largest trees that fell at Birmingham Park, along with Milton City Park & Preserve and Providence Park. Birmingham Park had eleven (11) trees across multiple trails, four (4) Trees in Milton Park and Preserve, and two (2) in Providence Park.

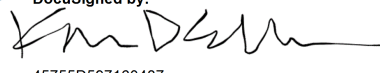
Staff recommends approval of this Construction Services Agreement with Exceed Tree Care.

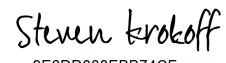
**PROCUREMENT SUMMARY**

**Purchasing method used:** 3 Written Quotes (\$5,000-\$49,999)  
**Account Number:** Multiple Accounts  
**Requisition Total:** \$9,800.00  
**Vendor:** Exceed Tree Care

**REVIEW & APPROVALS**

**Financial Review:** Karen Ellis, Finance Director – August 14, 2023  
**Legal Review:** Jennifer McCall, Jarrard & Davis, LLP – August 8, 2023  
**Concurrent Review:** Steven Krokoff, City Manager  
**Attachments:** Construction Services Agreement

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**SERVICE • TEAMWORK • OWNERSHIP • LEADERSHIP • RURAL HERITAGE**





**CONSTRUCTION SERVICES AGREEMENT – SHORT FORM  
Storm Damage Tree Removal – Various Park Locations**

This Construction Services Agreement (the “Agreement”) is made and entered into this \_\_\_ day of \_\_\_, 20\_\_\_ (the “Effective Date”), by and between the **CITY OF MILTON, GEORGIA**, a municipal corporation of the State of Georgia, acting by and through its governing authority, the Mayor and Milton City Council, located at 2006 Heritage Walk, Milton, Georgia 30004 (hereinafter referred to as the “City”), and **PRUDENCIO HERNANDEZ ROMERO DBA EXCEED TREE CARE**, an Individual Sole Proprietor, having its principal place of business at 2985 Allen Drive, Cumming, Georgia 30040 (hereinafter referred to as the “Contractor”), collectively referred to herein as the "Parties".

**WITNESSETH THAT:**

WHEREAS, the City desires to retain a contractor to perform services for the construction of a Project (defined below); and

WHEREAS, Contractor has represented that it is qualified by training and experience to perform the Work (defined below) and desires to perform the Work under the terms and conditions provided in the Contract Documents (defined below).

NOW THEREFORE, for and in consideration of the mutual promises, the public purposes, and the acknowledgements and agreements contained herein and other good and adequate consideration, the sufficiency of which is hereby acknowledged, the Parties hereto do mutually agree as follows:

**Section 1. Contract Documents:** This Agreement along with the following documents, attached hereto (except as expressly noted otherwise below) and incorporated herein by reference, constitute the Contract Documents:

- A. Scope of Work, attached hereto as “**Exhibit A**”;
- B. Insurance Certificate, attached hereto as “**Exhibit B**”;
- C. Contractor Affidavit, attached hereto as “**Exhibit C**”;
- D. Subcontractor Affidavit, attached hereto as “**Exhibit D**”; and
- E. City of Milton Code of Ethics (codified in the official Code of the City of Milton).

In the event of any discrepancy among the terms of the various Contract Documents, the provision most beneficial to the City, as determined by the City in its sole discretion, shall govern.

**Section 2. The Work:** A general description of the Project is as follows: provide services to cut and roll off trails and eye line seventeen (17) downed or storm damaged trees at various park locations in Milton, Georgia (the “Project”). The Work to be completed under this Agreement (the “Work”) includes, but shall not be limited to, the work described in the Scope of Work provided in “**Exhibit A**”, attached hereto and incorporated herein by reference. The Work includes all material, labor, insurance, tools, equipment, machinery, water, heat, utilities, transportation, facilities, services and any other miscellaneous items and work reasonably inferable from the Contract Documents. The term “reasonably inferable” takes into consideration the understanding of the Parties that some details necessary for proper execution and completion of the Work may not be shown on the drawings or included in the specifications or Scope of Work, but they are a requirement of the Work if they are a usual and customary component of the Work or are otherwise necessary for proper and complete installation and operation of the Work. Contractor shall complete the Work in strict accordance with the Contract Documents.

**Section 3. Contract Term; Termination:** Contractor understands that time is of the essence of this Agreement and warrants and represents that it will perform the Work in a prompt and timely manner, which shall not impose delays on the progress of the Work. Contractor shall commence Work pursuant to this Agreement on or before the start date to be specified on a written “Notice to Proceed” issued by the City and shall fully complete the Work within three (3) business

days from the issuance of the Notice to Proceed by the City. The City may terminate this Agreement for any time upon providing written notice thereof to Contractor. Provided that no damages are due to the City for Contractor's breach of this Agreement, the City shall pay Contractor for Work performed to date in accordance with Section 5 herein.

**Section 4. Work Changes:** Any changes to the Work requiring an increase in the Contract Price (defined below) shall require a written change order executed by the City in accordance with its purchasing regulations.

**Section 5. Compensation and Method of Payment:** The total amount paid under this Agreement as compensation for Work performed and reimbursement for costs incurred shall not, in any case, exceed NINE THOUSAND, EIGHT HUNDRED AND 00/100 DOLLARS (\$9,800.00) ("Contract Price"), except as outlined in Section 4 above. The compensation for Work performed shall be based upon lump sum, and Contractor represents that the Contract Price is sufficient to perform all of the Work set forth in and contemplated by this Agreement. Contractor shall take no calculated risk in the performance of the Work. Specifically, Contractor agrees that in the event it cannot perform the Work within the budgetary limitations established without disregarding sound principles of Contractor's industry, Contractor will give written notice thereof immediately to the City.

City agrees to pay Contractor for the Work performed and costs incurred by Contractor upon the City's certification that the Work was actually performed and costs actually incurred in accordance with this Agreement. No payments will be made for unauthorized work. Compensation for Work performed and, if applicable, reimbursement for costs incurred shall be paid to Contractor upon the City's receipt and approval of invoices setting forth in detail the Work performed and costs incurred, along with all supporting documents required by the Contract Documents or requested by the City to process the invoice. Invoice shall be submitted upon completion of the Work, and such invoice shall reflect costs incurred versus costs budgeted. Each invoice shall be accompanied by an Interim Waiver and Release upon Payment (or a Waiver and Release upon Final Payment, as appropriate) procured by the Contractor from all subcontractors in accordance with O.C.G.A. § 44-14-366.

**Section 6. Covenants of Contractor:**

A. Ethics Code; Conflict of Interest. Contractor agrees that it shall not engage in any activity or conduct that would result in a violation of the City of Milton Code of Ethics or any other similar law or regulation. Contractor certifies that to the best of its knowledge no circumstances exist which will cause a conflict of interest in performing the services required by this Agreement. Contractor and the City acknowledge that it is prohibited for any person to offer, give, or agree to give any City employee or official, or for any City employee or official to solicit, demand, accept, or agree to accept from another person, a gratuity of more than nominal value or rebate or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor. The Contractor and the City further acknowledge that it is prohibited for any payment, gratuity, or offer of employment to be made by or on behalf of a sub-consultant under a contract to the prime Contractor or higher tier sub-consultant, or any person associated therewith, as an inducement for the award of a subcontract or order.

B. Expertise of Contractor; City's Reliance on the Work. The Contractor acknowledges and agrees that the City does not undertake to approve or pass upon matters of expertise of the Contractor and that, therefore, the City bears no responsibility for Contractor's Work performed under this Agreement. The City will not, and need not, inquire into adequacy, fitness, suitability or correctness of Contractor's performance. The Contractor acknowledges and agrees that the acceptance or approval of any Work by the City is limited to the function of determining whether there has been compliance with what is required to be produced under this Agreement and shall not relieve Contractor of the responsibility for adequacy, fitness, suitability, and correctness of Contractor's Work under professional and industry standards.

C. Contractor's Reliance on Submissions by the City. Contractor must have timely information and input from the City in order to perform the Work required under this Agreement. Contractor is entitled to rely upon information provided

by the City, but Contractor shall be required to provide immediate written notice to the City if Contractor reasonably should know that any information provided by the City is erroneous, inconsistent, or otherwise problematic.

D. Contractor's Representative; Meetings. Prudencio Romero shall be authorized to act on Contractor's behalf with respect to the Work as Contractor's designated representative. Contractor shall meet with City's personnel or designated representatives to resolve technical or contractual problems that may occur during the term of this Agreement at no additional cost to City.

E. Independent Contractor. Contractor hereby covenants and declares that it is engaged in an independent business and agrees to perform the Work as an independent contractor. The Contractor agrees to be solely responsible for its own matters relating to the time and place the Work is performed and the method used to perform such Work; the instrumentalities, tools, supplies, and/or materials necessary to complete the Work; hiring and payment of subcontractors, agents, or employees to complete the Work, including compliance with Social Security, withholding, and all other regulations governing such matters. Any provisions of this Agreement that may appear to give the City the right to exercise a measure of control over such services will be deemed to mean that Contractor shall follow the directions of the City with regard to the results of such services only. Inasmuch as the City and the Contractor are independent of each other, neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both Parties hereto. The Contractor agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of the Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Contractor shall assume full liability for any contracts or agreements the Contractor enters into on behalf of the City without the express knowledge and prior written consent of the City.

F. Responsibility of Contractor and Indemnification of City. Contractor covenants and agrees to take and assume all responsibility for the Work rendered in connection with this Agreement. Contractor shall bear all losses and damages directly or indirectly resulting to it and/or the City on account of the performance or character of the Work rendered pursuant to this Agreement. Contractor shall defend, indemnify, and hold harmless the City and the City's elected and appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers (individually an "Indemnified Party" and collectively "Indemnified Parties") from and against any and all claims, suits, actions, judgments, injuries, damages, losses, costs, expenses and liability of any kind whatsoever, including, but not limited to, attorney's fees and costs of defense ("Liabilities"), which may arise from or be the result of a willful, negligent, or tortious act or omission arising out of the Work, performance of contracted services, or operations by the Contractor, any subcontractor, anyone directly or indirectly employed by the Contractor or subcontractor, or anyone for whose acts the Contractor or subcontractor may be liable, regardless of whether or not the negligent act or omission is caused in part by a party indemnified hereunder. This indemnity obligation does not include Liabilities caused by or resulting from the sole negligence of an Indemnified Party. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this provision. This obligation to indemnify, defend, and hold harmless the Indemnified Party(ies) shall survive expiration or termination of this Agreement, provided that the claims are based upon or arise out of actions or omissions that occurred during the performance of this Agreement.

G. Insurance. Contractor shall have and maintain in full force and effect for the duration of this Agreement, insurance of the types and amounts approved by the City, as shown on **Exhibit "B"**, attached hereto and incorporated herein by reference. Contractor shall also ensure that any subcontractors are covered by insurance policies meeting the requirements specified herein and provide proof of such coverage. As it relates to any general liability, automobile liability or umbrella policies, and except where such requirement is specifically waived in writing by the City, Contractor shall ensure that its insurer waives all rights of subrogation against the City for losses arising from Contractor's Work and that the City and its officials, employees or agents are named as additional insureds.

H. Assignment of Agreement. The Contractor covenants and agrees not to assign or transfer any interest in, nor delegate any duties of, this Agreement, without the prior express written consent of the City.



I. Employment of Unauthorized Aliens Prohibited – E-Verify Affidavit. Pursuant to O.C.G.A. § 13-10-91, Contractor shall not enter into a contract for the physical performance of services unless:

- (1) the Contractor shall provide evidence on City-provided forms, attached hereto as “**Exhibits “C” and “D”**” (affidavits to be sworn under oath under criminal penalty of false swearing pursuant to O.C.G.A. § 16-10-71), that it and its subcontractors have registered with, are authorized to use and use the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91, and that they will continue to use the federal work authorization program throughout the contract period, **or**
- (2) the Contractor provides evidence that it is not required to provide an affidavit because it is an *individual* licensed pursuant to Title 26 or Title 43 or by the State Bar of Georgia and is in good standing.

The Contractor hereby verifies that it has, prior to executing this Agreement, executed a notarized affidavit, the form of which is provided in “**Exhibit C**”, and submitted such affidavit to City or provided the City with evidence that it is not required to provide such an affidavit because it is an *individual* licensed and in good standing as noted in subsection (2) above. Further, Contractor hereby agrees to comply with the requirements of the federal Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, O.C.G.A. § 13-10-91 and Georgia Department of Labor Rule 300-10-1-.02.

In the event the Contractor contracts with any subcontractor(s) in connection with the covered contract, the Contractor agrees to secure from such subcontractor(s) attestation of the subcontractor’s compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 by the subcontractor’s execution of the subcontractor affidavit, the form of which is attached hereto as “**Exhibit D**”, which subcontractor affidavit shall become part of the contractor/subcontractor agreement, or evidence that the subcontractor is not required to provide such an affidavit because it is licensed and in good standing as noted in subsection (2) above. If a subcontractor affidavit is obtained, Contractor agrees to provide a completed copy to the City within five (5) business days of receipt. The Contractor and Contractor’s subcontractors shall retain all documents and records of their respective verification process for a period of five (5) years following completion of the contract.

Contractor agrees that the employee-number category designated below is applicable to the Contractor. [Information only required if a contractor affidavit is required pursuant to O.C.G.A. § 13-10-91.]

- 500 or more employees.  
 100 or more employees.  
 Fewer than 100 employees.

Contractor hereby agrees that, in the event Contractor employs or contracts with any subcontractor(s) in connection with this Agreement and where the subcontractor is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the Contractor will secure from the subcontractor(s) such subcontractor(s)’ indication of the above employee-number category that is applicable to the subcontractor. The above requirements shall be in addition to the requirements of State and federal law, and shall be construed to be in conformity with those laws.

J. Confidentiality. Contractor acknowledges that it may receive confidential information of the City and that it will protect the confidentiality of any such confidential information and will require any of its subcontractors, contractors, and/or staff to likewise protect such confidential information.

K. Licenses, Certifications and Permits. Contractor covenants and declares that it has obtained and will maintain all diplomas, certificates, licenses, permits, or the like required of the Contractor by any and all national, state, regional, county or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Work. The Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary or customarily secured for proper execution and completion of the Work.

L. Authority to Contract. The individual executing this Agreement on behalf of Contractor covenants and declares that it has obtained all necessary approvals of its board of directors, stockholders, general partners, limited partners, or similar authorities to simultaneously execute and bind Contractor to the terms of this Agreement, if applicable.

M. Ownership of Work. All reports, designs, drawings, plans, specifications, schedules, work product, and other materials, including those in electronic form, prepared or in the process of being prepared for the Work (“Materials”) shall be the property of the City, and the City shall be entitled to full access and copies of all such Materials in the form prescribed

by the City. Any and all copyrightable subject matter in all Materials is hereby assigned to the City, and agrees to execute any additional documents that may be necessary to evidence such assignment.

N. Nondiscrimination. In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, the Contractor agrees that, during performance of this Agreement, Contractor, for itself, its assignees and successors in interest, will not discriminate against any employee or applicant for employment, any subcontractor, or any supplier because of race, color, creed or belief, political affiliation, national origin, gender, age or disability. In addition, Contractor agrees to comply with all applicable implementing regulations and shall include the provisions of this paragraph in every subcontract for services contemplated under this Agreement.

O. Consultants Assisting with Procurement. As required by O.C.G.A. § 36-80-28, if the Agreement requires the Consultant to prepare, develop, or draft specifications or requirements for a solicitation (including bids, requests for proposals, procurement orders, or purchase orders) or to serve in a consultative role during a bid or proposal evaluation or negotiation process: (a) the Consultant shall avoid any appearance of impropriety and shall follow all ethics and conflict-of-interest policies and procedures of the City; (b) the Consultant shall immediately disclose to the City any material transaction or relationship, including, but not limited to, that of the Consultant, the Consultant's employees, or the Consultant's agents or subsidiaries, that reasonably could be expected to give rise to a conflict of interest, including, but not limited to, past, present, or known prospective engagements, involvement in litigation or other dispute, client relationships, or other business or financial interest, and shall immediately disclose any material transaction or relationship subsequently discovered during the pendency of the Agreement; and (c) the Consultant agrees and acknowledges that any violation or threatened violation of this paragraph may cause irreparable injury to the City, entitling the City to seek injunctive relief in addition to all other legal remedies.

**Section 7. Final Project Documents; Warranty:** Prior to final payment, Contractor shall deliver to City copies of any as-built drawings, operations, and maintenance manuals, and any other pertinent documents relating to the construction and operation of the Work that is not otherwise in the possession of the City. Contractor shall repair or replace all defects in materials, equipment, or workmanship appearing within one (1) year from the date of completion at no additional cost to the City.

**Section 8. Miscellaneous:**

A. Complete Agreement; Counterparts; Third Party Rights. This Agreement, including all of the Contract Documents, constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. This Agreement shall be exclusively for the benefit of the Parties and shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action or other right.

B. Governing Law; Business License; Proper Execution. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia without regard to choice of law principles. Any action or suit related to this Agreement shall be brought in the Superior Court of Fulton County, Georgia or the U.S. District Court for the Northern District of Georgia – Atlanta Division, and Contractor submits to the jurisdiction and venue of such court. During the Term of this Agreement, Contractor shall maintain a business license with the City, unless Contractor provides evidence that no such license is required. Contractor agrees that it will perform its services in accordance with the usual and customary standards of the Contractor's profession or business and in compliance with all applicable federal, state, and local laws, regulations, codes, ordinances, or orders applicable to the Project, including, but not limited to, O.C.G.A. § 50-5-63, any applicable records retention requirements, and Georgia's Open Records Act (O.C.G.A. § 50-18-70, *et seq.*).

C. Notices. All notices, requests, demands, writings, or correspondence, as required by this Agreement, shall be in writing and shall be deemed received, and shall be effective, when (1) personally delivered, or (2) on the third calendar day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (3) upon actual delivery

when sent via national overnight commercial carrier to the Party at the addresses first given above or at a previously furnished to the other Party by written notice in accordance herewith.

D. Waiver; Sovereign Immunity. No express or implied waiver shall affect any term or condition other than the one specified in such waiver, and that one only to the extent specifically stated. Nothing contained in this Agreement shall be construed to be a waiver of the City’s sovereign immunity or any individual’s qualified good faith or official immunities.

E. Agreement Construction and Interpretation; Invalidity of Provisions; Severability. Contractor represents that it has reviewed and become familiar with the Contract Documents, the nature and extent of the Work, work site(s), locality, and all local conditions, laws and regulations that in any manner may affect cost, progress, performance, or furnishing of the Work. Contractor represents that it has given the City written notice of all conflicts, errors, or discrepancies that the Contractor has discovered in the Contract Documents, and the written resolution thereof by the City is acceptable to the Contractor. The Parties hereto agree that, if an ambiguity or question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions of the Agreement. In the interest of brevity, the Contract Documents may omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. Should any article(s) or section(s) of this Agreement, or any part thereof, later be deemed illegal, invalid or unenforceable by a court of competent jurisdiction, the offending portion of the Agreement should be severed, and the remainder of this Agreement shall remain in full force and effect to the extent possible as if this Agreement had been executed with the invalid portion hereof eliminated, it being the intention of the Parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions that may for any reason be hereafter declared invalid.

**[SIGNATURES ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the City and the Contractor have executed this Agreement effective as of the Effective Date first above written.

**CONTRACTOR: PRUDENCIO HERNANDEZ ROMERO dba EXCEED TREE CARE**

By: Prudencio Romero

Its: Owner (Sole Proprietorship/Individual)

Attest/Witness:

Luis Romero

By: Luis Romero

Its: Witness

**CITY OF MILTON, GEORGIA**

**RATIFIED BY COUNCIL**

Signature: ~~AKK~~  
Steven Krokoff, City Manager

Signature: \_\_\_\_\_  
Peyton Jamison, Mayor

Stacey Inglis, Deputy City Manager

[CITY SEAL]

Attest: \_\_\_\_\_

By: \_\_\_\_\_  
Its: City Clerk

Approved as to form:

DocuSigned by:  
Jennifer McCall 8/14/2023  
City of Milton 8432807748A... Date

**“EXHIBIT A”**

# EXCEED TREE CARE INVOICE



Date: August 8, 2023  
 Receipt # 1

Exceed Tree Care  
 7404 Majors Rd.  
 Cumming, GA 30041  
 (404)-587-2214  
 romero@exceedtreecare.com

SERVICE [Jen.younh@miltonga.gov](mailto:Jen.younh@miltonga.gov)  
 TO Milton City Tree Work

AREA	CHECK NO.	JOB
		Tree Removal

QTY	ITEM #	DESCRIPTION	SUPPLEMENTARY	SUB-TOTAL	LINE TOTAL
<b>PROVIDENCE PARK</b>					
1	Pine Tree	-Sectioned and rolled 10 ft off trail & eye line	- White trail	\$1,800	\$1,800
1	Oak Tree	Sectioned and rolled 10 ft off trail & eye line	-Blue Trail		
<b>MILTON CITY PARK &amp; PRESERVE</b>					
1	Pine Tree	-- Sectioned and rolled 15-20f ft off trail & eye line	-Located behind community center		
3	Trees	- Sectioned and rolled 15-20f ft off trail & eye line	-located near trail	\$3,000	\$3,000
Brush & Tree removal	-Brush/limbs	- Sectioned and rolled 15-20f ft off trail & eye line	-located near trail		
<b>BIRMINGHAM PARK</b>					
1	Tree	Sectioned and rolled 10 ft off trail & eye line	-Meadow trail		
2	Trees	Sectioned and rolled 10 ft off trail & eye line	-Red-Yellow Trail		
6	Trees	Sectioned and rolled 10 ft off trail & eye line	-Blue Trail	\$5,000	\$5,000
2	Trees	Sectioned and rolled 10 ft off trail & eye line	-Equestrian Trailer parking		
				Line Total	\$9,800.00

**“EXHIBIT B”**

*Section 6, Item E.*



# CERTIFICATE OF LIABILITY INSURANCE

Section 6, Item E. (MM/DD) /2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**PRODUCER**  
AGM Hispanic Services El Tio Inc  
6040 Dawson Blvd Ste. G  
Norcross, GA 30093

**CONTACT NAME:**  
**PHONE (A/C. No. Ext):** 772-276-2709 **FAX (A/C. No):** 772-276-2709  
**E-MAIL ADDRESS:** comercialfl@inuranceus.com

INSURER(S) AFFORDING COVERAGE	
INSURER A :	The Burlington Insurance Company
INSURER B :	Amguard Ins Co
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

**INSURED**  
PRUDENCIO ROMERO HERNANDEZ  
DBA Exceed Tree Care  
1071 Homesteaders Dr Cumming, GA 30041

### COVERAGES

**CERTIFICATE NUMBER:**

**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY FFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			864B007668	04/21/23	04/21/24	EACH OCCURRENCE \$ 1,000,000
			<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
	<b>AUTOMOBILE LIABILITY</b>						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS	<input type="checkbox"/>	<input type="checkbox"/>				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR						\$
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE	<input type="checkbox"/>	<input type="checkbox"/>				EACH OCCURRENCE \$
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						AGGREGATE \$
							\$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>			R2WC349067	05/15/23	05/15/24	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N					E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below	Y	N/A				E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

### CERTIFICATE HOLDER

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE GIVEN IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



EXHIBIT "C"

PRIVATE EMPLOYER EXEMPTION AFFIDAVIT  
O.C.G.A § 13-10-91

STATE OF GEORGIA  
COUNTY OF FULTON

By executing this Affidavit, the undersigned private employer verifies that it is exempt from compliance with O.C.G.A. § 36-60-6, stating affirmatively that the individual, firm or corporation employees zero (0) employees and therefore, is not required to register with and/or utilize the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established by O.C.G.A. § 13-10-90.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Prudencio Romero  
Signature of Exempt Private Employer

8-10-2023  
Date

Prudencio Romero  
Printed Name of Exempt Private Employer

Subscribed and sworn before me on this the 10th day of August, 2023

[Signature]  
Notary Public  
My Commission Expires: 04/30/27



**A COPY OF A VALID DRIVER'S LICENSE IS REQUIRED TO BE SUBMITTED WITH THIS FORM**

THIS PART TO BE FILLED OUT BY THE CITY:

DL Info: GA  
State: \_\_\_\_\_ Exp Date: 04/28/2029

Verified by:  
Honor Motes, Procurement Mgr 08/11/2023  
CC Procurement Office Date

“EXHIBIT D”

**SUBCONTRACTOR AFFIDAVIT AND AGREEMENT  
under O.C.G.A. § 13-10-91(b)(3)**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with Prudencio Hernandez Romero dba Exceed Tree Care on behalf of the City of Milton, Georgia, has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period, and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five (5) business days of receipt. If the undersigned subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned subcontractor must forward, within five (5) business days of receipt, a copy of the notice to the contractor.

Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification  
Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Subcontractor

Storm Damage Tree Removal – Various Park  
Locations  
Name of Project

City of Milton, Georgia  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, 20\_\_ in  
\_\_\_\_\_ (city), \_\_\_\_\_ (state).

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name and Title of Authorized Officer or  
Agent

SUBSCRIBED AND SWORN BEFORE ME  
ON THIS THE \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:  
\_\_\_\_\_

**STAFF MEMO:**  
**FINANCIAL**

**TO:** Honorable Mayor and City Council Members  
**FROM:** Ashley Smith, IT Director  
**DATE:** Submitted on August 11, 2023 for the August 21, 2023 Regular City Council Meeting

DocuSigned by:  
*Ashley Smith*  
505853043B5C476...

**AGENDA ITEM:** Approval of an Order Form Agreement with Addendum No. 1 between Fulton Communications, Inc. dba Vertical Communications, Inc. and the City of Milton for implementation of a hosted VOIP Phone Services.

**PROJECT DESCRIPTION**

This is a contract for implementation of the hosted GoTo Connect Voice Over IP Phone Services for the City. IT conducted a competitive bid process for a hosted VOIP solution and services and selected GoTo Communications and Vertical Communications as the vendor(s) of choice. Vertical Communications is the integrator for the project providing installation services and on-going support. The project will encompass the full deployment of the GoTo VOIP platform, hardware configuration (handsets and conference phones), Microsoft Teams integration setup, and end user/administrator training. This system will be replacing the current on-premises Shortel system that is end-of-life by the vendor. This is a one-time cost totaling \$0.

**PROCUREMENT SUMMARY**

**Purchasing method used:** RFP  
**Account Number:** 100-1535-523850106  
**One-Time Total:** \$0

**REVIEW & APPROVALS**

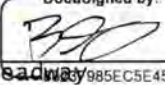
**Financial Review:** Karen Ellis, Finance Director – August 14, 2023  
**Legal Review:** Jennifer McCall, Jarrard & Davis, LLP – July 26, 2023  
**Concurrent Review:** Steven Krokoff, City Manager  
**Attachments:** Order Form Agreement with Addendum No. 1

DocuSigned by:  
*Karen Ellis*  
45755D597160487...

DocuSigned by:  
*Steven Krokoff*  
9E6DD808EBB74CF...



## TERMS AND CONDITIONS

<b>Vertical Communications, Inc. ("The Company")</b>	<b>City of Milton ("Customer")</b>
Principal Place of Business (Address): 1000 Holcomb Woods Parkway, Building 300 Suite 300 Roswell, GA 30076	Principal Place of Business (Address): 2006 Heritage Walk, Milton, GA 30004
Signature: 	Signature:
Name: Ben Treasday 985EC5E459...	Name:
Title: President	Title:
Date: 8/10/2023	Date:

1. **Term.** This Agreement is effective as of the date it is signed by both The Company and Customer and will continue perpetually unless terminated by either party. If the parties agree to termination of this Agreement, the terms of the Agreement shall end.
2. **Substitutions and Subcontracting.** The Company may substitute the System or any component thereof with comparable new equipment of equivalent functionality without notice to Customer. The Company may subcontract its obligations under this Agreement, but will remain responsible for such obligations.
3. **Software License.** All Software delivered under this Agreement shall be provided as object code and licensed to Customer pursuant to the end user license agreement accompanying the Software ("EULA"). Title to the Software shall remain at all times with The Company or its suppliers. Customer is granted no other rights to the Software except what is expressly stated in the EULA and The Company reserves all other rights. If at any time The Company determines that the Customer is using unlicensed features, The Company may in its sole discretion either allow the Customer to pay for continued use of those features or disable or remove the same in addition to any other remedies available under this Agreement or at law. Customer's obligations under the EULA shall survive the termination of the Agreement.
4. **Hardware.** Title and risk of loss to Hardware detailed in the schedule of equipment shall pass to Customer FOB shipping point. However, in the event Customer has elected to finance such purchase, title shall pass to such third party financier, unless the parties agree otherwise.
5. **Security Interest.** Until The Company has received full Payment, Customer hereby grants to The Company a security interest in the System and, if necessary, authorizes The Company or shall assist The Company to file any forms necessary in order to perfect a security interest in the System.
6. **Confidentiality.** Customer shall maintain in confidence and prevent the unauthorized use, disclosure, copying or publication of the Hardware and Software, which shall include any associated intellectual property rights, and any other information which is designated by The Company as confidential or would be understood by Customer using reasonable business judgment to be confidential.
7. **Additions.** In the event it should at any time become necessary, or should The Customer at any time require that changes be made to The Customer's system as presently constituted, by the addition of other units and/or by the modification of the system, The Customer agrees that any additions to, and/or modifications of, the system will become part of this Service Agreement just as though said additions and/or modifications were originally included hereunder and The Customer agrees to pay an increased monthly service rate for the addition and/or modifications at The Company, then current charges for such additions and/or modifications.
8. **Indemnification**
  - a) **Mutual Indemnity.** Each party (the "indemnifying party") shall indemnify and hold harmless the other party (the "indemnified party"), its employees, directors, officers partners, shareholders, and agents (collectively, the "Related Parties"), from and against any and all third party demands, losses, liabilities, damages, expenses and claims, including attorneys' fees (collectively, "Losses"). Relating to bodily injury or death of any person or damage to real and/or tangible personal property directly caused by the negligence or willful misconduct of the indemnifying party (or its Related Parties) in connection with the performance of this agreement.
  - b) **Breach Indemnity.** Client shall indemnify and hold harmless The Company and its Related Parties from and against any and all Losses and Third Party Claims resulting from or relating to any material breach of this agreement, or any unauthorized use or misuse of any of The Company's Services or work product, by Client and/or its Representatives and/or its Related Parties.
  - c) **Notice and Cooperation.** As a condition to any of the foregoing indemnities, the indemnified party must promptly notify the indemnifying party in writing of a claim or suit, provide reasonable cooperation at the indemnifying party's expense and provide full authority for such indemnifying party to defend or settle the claim or suit. The indemnifying party shall have no obligation to indemnify the indemnified party under any settlement made without the indemnifying parties written consent.
9. **Limitation of Liability.** Except for the provisions related to Confidentiality, Software license and Customer's obligation for indemnity for intellectual property infringement: (i) in no event shall either party be liable to the other for consequential, indirect, special or general damages arising from any claim or action based on contract, tort or other legal theory; and (ii) direct damages shall not exceed the amount payable to The Company under this Agreement. The Company shall not be liable for loss of data, the inability to use data, damage or expense arising from the use or inability to use the System, either separately or in combination with any other system, whether or not The Company has received notice of the possibility of such damages.
10. **Delivery, Cutover and Acceptance**
  - a) **Delivery.** Upon execution of this Agreement and any applicable Supplement, or a mutually agreed upon date by the parties, The Company will deliver and install the System on the date indicated in the Supplement.
  - b) **Cutover.** Cutover occurs when The Company determines that the System is performing substantially in compliance with the manufacturer specifications. Omissions or variances that do not, in The Company's sole determination, materially affect the operation of the System shall not delay Cutover.
  - c) **Acceptance.** Unless Customer provides The Company, within ten (10) business days following Cutover ("Acceptance Period"), with written notice detailing any material nonconformity of the System with the manufacturer specifications ("Notice of Non-conformity"), acceptance of the System by Customer shall be deemed to have occurred.  
Where The Company confirms that a non-conformity, detailed in a Notice of Non-conformity, is verifiable and material, the Acceptance period will be suspended until The Company corrects the problem. Upon correction, the ten (10) business day Acceptance Period will begin anew.  
Where The Company is unable to confirm that a non-conformity, detailed in a Notice of Non-conformity, is verifiable and material, then the Acceptance Period will run from Cutover.  
Customer agrees that failure to provide a Notice of Non-conformity within the Acceptance Period shall constitute unconditional acceptance by Customer of the System and any related services detailed in a Supplement.
11. **Warranty**
  - a) **Services Warranty.** All work provided hereunder will be performed in a good and workman-like manner consistent with standard communications industry practice.
  - b) **System Warranty.** During the warranty period, Customer shall receive the following inclusions:
    - i. **Software Warranty.** During the term of the manufacturer's warranty period, the Software media will be free from defects in material and workmanship under normal use and the Software will perform substantially in compliance with the manufacturer's specifications. To the extent that any deficiency in the material or workmanship prevents the Software from operating substantially in accordance with the manufacturer's specifications, The Company will use commercially reasonable efforts to correct the problem within a reasonable period of time. If the problem cannot be corrected, The Company will in its sole discretion either replace the Software or install a new release when made generally available or return the System to a prior release. Updates intended to fix problems or bugs as well as upgrades to Software will be made available to Customer at no cost during the warranty period.
    - ii. **Hardware Warranty.** During the term of the manufacturer's warranty period (twelve (12) months from Acceptance) ("Hardware Warranty Period"), all Hardware components will be free from defects in material and workmanship under normal use and will perform in substantial compliance with the manufacturer's specifications. The exclusive remedy and recourse for Customer under this Hardware warranty is for The Company, at its election, to repair, replace or modify the defective parts. The Company may utilize remanufactured, certified parts that meet the specifications. Such replacement parts will be covered for the remainder of the existing Hardware warranty. Any part removed shall become the property of The Company.
  - c) **Exceptions to the Warranty.** Incremental support may be purchased through a support plan ("Support Plan"). The software and hardware warranties detailed under (i) and (ii) above shall become void if one of the following occurs: (i) the System is not used properly in accordance with the manufacturer's specifications and operating instructions or otherwise is abused, damaged, or negligently

serviced or maintained by anyone other than The Company or an authorized The Company dealer; (ii) work is performed on the System by anyone not authorized by The Company; (iii) the System is installed or used in combination or in assembly with products that are either not approved by The Company or not compatible with the System; and should such an event happen, Customer shall be entitled to cure the breach by removal of such products within a reasonable period. The Software and Hardware Warranties exclude Customer-supplied parts and expendable or personal-use items such as batteries, headsets, paper, printer ribbons, cabling or non-manufacturer telephone sets.

The foregoing are predicated on The Company receiving timely written notice of any nonconformity with as much specificity as is known and as soon as Customer becomes aware of such nonconformity, but in any event prior to the expiration of the relevant warranty period.

The Company shall have the right to inspect and test the System to determine, in its reasonable discretion, whether the nonconformity is covered under the applicable warranty.

THE WARRANTIES SET FORTH IN THIS SECTION ARE IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, FROM THE COMPANY OR ITS SUPPLIERS. THERE ARE NO OTHER REPRESENTATIONS THAT EXTEND BEYOND THE FACE OF THESE WARRANTIES. ALL OTHER WARRANTIES OR CONDITIONS WHATSOEVER, INCLUDING THE WARRANTY OF MERCHANTABILITY & THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXCLUDED & DISCLAIMED. THE COMPANY DOES NOT WARRANT THAT THE OPERATION OF THE SYSTEM WILL BE UNINTERRUPTED OR ERROR FREE.

- d) **Disclaimers** – The Company disclaims any express or implied warranty or condition that the System or any services provided by The Company prevent toll fraud, unauthorized access, loss or theft of electronic data, or invasion of privacy (collectively, "fraudulent activity"). The Company shall have no liability to Customer in the event of such fraudulent activity. Customer is advised that the operation of e-911 requires accurate information contained in Customer's database, which Customer is solely responsible for creating and managing.

## 12. General

- a) **Claims.** Any claim or suit arising from this Agreement must be brought within eighteen (18) months from the date that the cause of action accrued. The prevailing party in any legal action shall be entitled to recover reasonable attorney's fees and costs in the amount allowed by court.
- b) **Assignment.** Customer shall not assign its rights or delegate its obligations under this Agreement in whole or in part without The Company's prior written consent, which will not be unreasonably withheld.
- c) **Force Majeure.** Neither party shall be held liable for a breach of its obligations under this Agreement resulting from (i) force majeure events, such as debilitating forces of nature, acts of God, acts of governments, acts or omissions of third parties, or (ii) conditions beyond the reasonable control of the party that failed to perform. A party that fails to perform for reasons of force majeure or for reasons beyond the reasonable control of the party that failed to perform shall deliver the performance as soon as commercially practicable.
- d) **Severability.** In the event a provision contained herein is for any reason held to be unenforceable, such unenforceability shall not affect the validity of any other provision of this Agreement, and this Agreement shall then be construed as if such unenforceable provision had never been contained herein. The parties agree to work in good faith to substitute the invalid provision with one that best achieves the original intent of the parties.
- e) **Applicable Law.** This Agreement shall be interpreted under the laws of the State of Georgia. Venue shall be in the State of Georgia.
- f) **Entire Agreement.** This Agreement, together with any Supplements, expresses the entire agreement of the parties and supersedes any prior agreement or negotiation between the parties. There is no other understanding, agreement or representation, including any requests for proposal of Customer and responses of The Company, or P.O.s issued in support of this Agreement that in any way limits, extends, defines or relates to this Agreement. Any terms or conditions of a P.O. or other document that purports to add, delete or otherwise amend this Agreement shall be null and void. In the event of any conflict between the terms of this Agreement or any SOW, Schedule 1 or P.O., precedence will follow in that order.
- g) **Notices.** All notices and communications between Customer and The Company pertaining to this Agreement shall be addressed to Customer and The Company at the addresses set out at the beginning of this Agreement.
- h) **Counterparts.** This Agreement may be executed in counterparts with the same effect as if both parties signed the same document. The counterparts shall be construed together and shall constitute one and the same original Agreement. A signature on this Agreement by one party communicated to the other by electronic transmission, such as PDF, e-mail or facsimile, will constitute execution of this Agreement.



# ORDER FORM

Section 6, Item F.

1000 Holcomb Woods Plwy, Suite 415  
Roswell, GA 30076

**ADDS:** Add on Order#:

Whse	Quantity	Part Number	Description	Unit Price	Ext Price	Customer Initials
	55	OnSite	OnSite Labor for deployment of GoTo Conne	\$25.00	\$1,375.00	
	55	Disc.		-\$25.00	-\$1,375.00	
					\$0.00	
					\$0.00	

**TOTAL:** \$0.00

**RETURNS:** Original order closed? No

Whse	Quantity	Part Number	Description	Unit Price	Ext Price	Customer Initials
					\$0.00	
					\$0.00	
					\$0.00	

**TOTAL:** \$0.00

Original Order #: \_\_\_\_\_  
 Customer Name: City of Milton  
 Job Number: \_\_\_\_\_  
 Ship Via: UPS  
 If Drop Ship, list Customer Address: 2006 Heritage Walk  
Milton, GA 30004

Date: 7/12/2023  
 Customer#: \_\_\_\_\_  
 Cust P.O.#: \_\_\_\_\_

Description of Change
Onsite deployment of endpoints and support for GoTo Connect implementation.

Customer Approval: \_\_\_\_\_

Date: \_\_\_\_\_

Sales Representative: K. Keith Drew

Sales Rep/Tech#: \_\_\_\_\_

For Office Use Only:
Date Keyed: _____ Keyed By: _____



**CITY OF MILTON REQUEST FOR PROPOSALS  
(THIS IS NOT AN ORDER)**

<b>RFP Number:</b> 23-IT01	<b>RFP Title:</b> Managed VoIP Solution
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<p><b>Due Date and Time: March 29, 2023 by 2:00 pm EST</b>  <i>**Pending updates relating to COVID-19 the City may conduct the bid opening via a virtual meeting. Responding bidders will be emailed a meeting link should the need to hold this type meeting arise.</i></p>	<b>Number of Pages: 50</b>
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**ISSUING DEPARTMENT INFORMATION**

<b>Issue Date: March 2, 2023</b>	
<p><b>City of Milton IT Department 2006 Heritage Walk Milton, GA 30004</b></p>	<p><b>Phone: 678-242-2500</b>  <b>Website: <a href="http://www.miltonga.gov">www.miltonga.gov</a></b></p>

**INSTRUCTIONS TO OFFERORS**

<p><b>Electronic Submittal:</b> **Proposals must be submitted electronically via Milton's BidNet procurement portal/platform at <a href="http://www.miltonga.gov">www.miltonga.gov</a></p> <p>If you have not registered as a vendor via BidNet we encourage you to register. There is no cost to join, and you will be notified of any potential bid opportunities with the City of Milton as well as other agencies who are part of the Georgia Purchasing Group.</p>	<p><b>Mark Envelope/Package:</b>  <b>RFP Number: 23-IT01</b>  <b>Name of Company or Firm</b></p>
	<p><b>Special Instructions:</b>  <b>Deadline for Written Questions</b>  <b>March 17, 2023 by 5:00 PM EST</b></p> <p><b>Submit questions online via the BidNet Direct procurement portal at <a href="http://www.miltonga.gov">www.miltonga.gov</a></b></p>

**IMPORTANT: SEE STANDARD TERMS AND CONDITIONS**

**OFFERORS MUST COMPLETE THE FOLLOWING**

Offeror Name/Address:	Authorized Offeror Signatory:
	(Please print name and sign in ink)
Offeror Phone Number:	Offeror FAX Number:
Offeror Federal I.D. Number:	Offeror E-mail Address:

**OFFERORS MUST RETURN THIS COVER SHEET WITH RFP RESPONSE**



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Section 4: Offeror Qualifications

Section 5: Cost Proposal

Section 6: Evaluation Criteria

Section 7: Standard Contract Information

Sample Standard Contract



## OFFEROR'S RFP CHECKLIST

The 10 Most Critical Things to Keep in Mind When Responding to an RFP for the City of Milton

1. \_\_\_\_\_ Read the entire document. Note critical items such as: mandatory requirements; supplies/services required; submittal dates; number of copies required for submittal; funding amount and source; contract requirements (i.e., contract performance security, insurance requirements, performance and/or reporting requirements, etc.).
2. \_\_\_\_\_ Note the procurement officer's name, address, phone numbers and e-mail address. This is the only person you are allowed to communicate with regarding the RFP and is an excellent source of information for any questions you may have.
3. \_\_\_\_\_ Attend the pre-qualifications conference if one is offered. These conferences provide an opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify the City of any ambiguities, inconsistencies, or errors in the RFP.
4. \_\_\_\_\_ Take advantage of the "question and answer" period. Submit your questions to the procurement officer by the due date listed in the Schedule of Events and view the answers given in the formal "addenda" issued for the RFP. All addenda issued for an RFP are posted on the City's website at <http://www.miltonga.gov> will include all questions asked and answered concerning the RFP.
5. \_\_\_\_\_ Follow the format required in the RFP when preparing your response. Provide point-by-point responses to all sections in a clear and concise manner.
6. \_\_\_\_\_ Provide complete answers/descriptions. Read and answer all questions and requirements. Don't assume the City or evaluation committee will know what your company capabilities are or what items/services you can provide, even if you have previously contracted with the City. The submittals are evaluated based solely on the information and materials provided in your response.
7. \_\_\_\_\_ Use the forms provided, i.e., cover page, sample budget form, certification forms, etc.
8. \_\_\_\_\_ Check the website for RFP addenda. Before submitting your response, check the City's website at <http://www.miltonga.gov> to see whether any addenda were issued for the RFP. If so, you must submit a signed cover sheet for each addendum issued along with your RFP response.
9. \_\_\_\_\_ Review and read the RFP document again to make sure that you have addressed all requirements. Your original response and the requested copies must be identical and be complete. The copies are provided to the evaluation committee members and will be used to score your response.
10. \_\_\_\_\_ Submit your response on time. Note all the dates and times listed in the Schedule of Events and within the document and be sure to submit all required items on time. Late submittal responses are never accepted.

This checklist is provided for assistance only and should not be submitted with Offeror's response.



**CITY OF MILTON DISCLOSURE FORM  
MUST BE RETURNED WITH PROPOSAL**

This form is for disclosure of campaign contributions and family member relations with City of Milton officials/employees.

Please complete this form and return as part of your RFP package when it is submitted.

Name of Offeror \_\_\_\_\_

Name and the official position of the Milton Official to whom the campaign contribution was made (Please use a separate form for each official to whom a contribution has been made in the past two (2) years.)

\_\_\_\_\_

List the dollar amount/value and description of each campaign contribution made over the past two (2) years by the Applicant/Opponent to the named Milton Official.

Amount/Value	Description
_____	_____
_____	_____
_____	_____

Please list any family member that is currently (or has been employed within the last 12 months) by the City of Milton and your relation:

\_\_\_\_\_

\_\_\_\_\_



**RFP# 23-IT01  
PROPOSAL LETTER  
MUST BE RETURNED WITH PROPOSAL**

We propose to furnish and deliver any and all of the deliverables and services named in the Request for Proposal (23-IT01), Managed VoIP Solution.

It is understood and agreed that we have read the City’s specifications shown or referenced in the RFP and that this proposal is made in accordance with the provisions of such specifications. By our written signature on this proposal, we guarantee and certify that all items included meet or exceed any and all such City specifications. We further agree, if awarded a contract, to deliver goods and services which meet or exceed the specifications. The City reserves the right to reject any or all proposals, waive technicalities, and informalities, and to make an award in the best interest of the City.

**PROPOSAL SIGNATURE AND CERTIFICATION**

I understand collusive bidding is a violation of State and Federal Law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of the proposal and certify that I am authorized to sign for my company. I further certify that the provisions of the Official Code of Georgia Annotated, Sections 45-10-20 et. seq. have not been violated and will not be violated in any respect.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

Print/Type Name \_\_\_\_\_

Print/Type Company Name Here \_\_\_\_\_



**CONTRACTOR AFFIDAVIT AND AGREEMENT**

**MUST BE RETURNED WITH PROPOSAL**

**STATE OF GEORGIA**

**CITY OF MILTON**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services on behalf of the City of Milton has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b).

Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
eVerify Number

I hereby declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Date of Authorization

Executed on \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_  
in \_\_\_\_\_(city), \_\_\_\_\_(state).

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Signature of Authorized Officer or Agent

Managed VoIP Solution  
Name of Project

\_\_\_\_\_  
Printed Name and Title of Authorized Officer or Agent

City of Milton, Georgia  
Name of Public Employer

SUBSCRIBED AND SWORN BEFORE ME ON  
THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

[NOTARY SEAL]

My Commission Expires:  
\_\_\_\_\_

## SCHEDULE OF EVENTS

<b>Task</b>	<b>Date</b>
Issue RFP	March 2, 2023
Site Visit ( <i>recommended, but not mandatory</i> )	March 15, 2023 at 10:00 am
Deadline for Questions	March 17, 2023, by 5:00 p.m. EST
Answers Posted by the City (Addendum)	On or about, March 22, 2023
<b>Proposals Due</b>	<b>By 2:00 p.m. EST on March 29, 2023</b>
Award Contract	May 1, 2023 (proposed)

**NOTE: PLEASE CHECK THE CITY WEBSITE (<http://www.miltonga.gov>) FOR ADDENDA AND SCHEDULE UPDATES.**

## SECTION 1: PROJECT OVERVIEW AND INSTRUCTIONS

### 1.0 BACKGROUND AND STATEMENT OF INTENT

The City of Milton is accepting sealed Proposals from qualified firms to provide a **Managed VoIP Solution**. All Offerors must comply with all general and special requirements of the RFP information and instructions enclosed herein. Project completion is expected by September 1, 2023.

### 1.1 SINGLE POINT OF CONTACT

From the date this Request for Proposals (RFP) is issued until a Contractor is selected, Offerors are not allowed to communicate with any City staff or elected officials regarding this procurement, except at the direction of Honor Motes, Procurement Manager. Any unauthorized contact may disqualify the Offeror from further consideration. Contact information for the single point of contact is as follows:

Procurement Office: Honor Motes, Procurement Manager

Address: 2006 Heritage Walk, Milton, GA 30004

Telephone Number: 678-242-2507

E-mail Address: [honor.motes@miltonga.gov](mailto:honor.motes@miltonga.gov)

### 1.2 REQUIRED REVIEW

#### A. Review RFP.

Offerors should carefully review the instructions; mandatory requirements, specifications, standard terms and conditions, and standard contract set out in this RFP and promptly notify the procurement office identified above via e-mail of any ambiguity, inconsistency, unduly restrictive specifications, or error which they discover upon examination of this RFP.

#### B. Form of Questions.

Offerors with questions or requiring clarification or interpretation of any section within this RFP must submit their questions via the solicitation link on BidNet Direct, the procurement portal on the City's website, on or before **5 PM (EST) on March 17, 2023**. Each question must provide clear reference to the section, page, and item in question. Questions received after the deadline may not be considered.

#### C. City's Answers.

The City will provide an official written answer to all questions on or about **March 22, 2023**. The City's response will be by formal written addendum.

Any other form of interpretation, correction, or change to this RFP will not be binding upon the City. Any formal written addendum will be posted alongside the posting of the RFP at <http://www.miltonga.gov>. Offerors must sign and return any addendum with their RFP response.

D. Standard Contract.

By submitting a response to this RFP, Offeror agrees to acceptance of the City's standard contract. Much of the language included in the standard contract reflects requirements of state law. Requests for exceptions to the standard contract terms, or any added provisions must be submitted to the procurement office referenced above by the date for receipt of written/e-mailed questions or with the Offeror's RFP response and must be accompanied by an explanation of why the exception is being taken and what specific effect it will have on the Offeror's ability to respond to the RFP or perform the contract. The City reserves the right to address non-material, minor, insubstantial requests for exceptions with the highest scoring Offeror during contract negotiation. Any material, substantive, important exceptions requested and granted to the standard terms and conditions and standard contract language will be addressed in any formal written addendum issued for this RFP and will apply to all Professionals submitting a response to this RFP.

E. Mandatory Requirements.

To be eligible for consideration, an Offeror must meet the intent of all mandatory requirements. The City will determine whether an Offeror's RFP response complies with the intent of the requirements. RFP responses that do not meet the full intent of all requirements listed in this RFP may be subject to point reductions during the evaluation process or may be deemed non-responsive.

### 1.3 NON-DISCRIMINATION

All qualified applicants will receive consideration without regard to age, handicap, religion, creed or belief, political affiliation, race, color, sex, or national origin.

### 1.4 SUBMITTING PROPOSALS

Offerors must organize their proposal into sections that follow the following format. This RFP is for one proposal that includes all potential phases of this project.

A. Submittal Requirements.

Proposals shall include the following:

1. City of Milton request for proposal cover page (information entered and signed: first page of this document)

2. City of Milton Disclosure form (signed)
3. City of Milton Proposal letter (information entered)
4. Technical Proposal:
  - a. No more than twenty (20) single sided pages
    1. Cover page(s), table of contents, tabs, and required forms do not count toward the page limit
  - b. Minimum of 11-point font

Each Technical Proposal Shall Contain:

- a. Project Team – include Project Manager, project staffing, qualifications of the project team, and what sets the team apart
- b. Work Plan – provide an anticipated project schedule with 12/1/22 as an assumed Notice to Proceed, any anticipated challenges, and any innovative approaches
- c. Related Projects and References
  - a. Describe the last (5) implementations with references and the degree of involvement of the team. For the Microsoft Team proposal a list of 5 references is not needed.
  - d. Pricing (See Section 5.0)
5. Applicable Addenda Acknowledgement Forms (if necessary)

B. Failure to Comply with Instructions.

Offerors failing to comply with these instructions may be subject to point deductions. The City may also choose to not evaluate, may deem non-responsive, and/or may disqualify from further consideration any qualifications that do not follow this RFP format, are difficult to understand, are difficult to read, or are missing any requested information.

C. Electronic Submittal Required and Deadline for Receipt of Proposals.

**Proposals must be submitted electronically via Milton's BidNet procurement portal/platform at [www.miltonga.gov](http://www.miltonga.gov) by 2:00 PM on March 29, 2023.** Proposals will be opened at approximately 2:30 p.m. and names of Firms will be announced. *\*\*Pending updates relating to COVID-19, the City may conduct the bid opening via a virtual meeting. Responding offerors will be emailed a meeting link should the need to hold this type meeting arise.*

D. Late Proposals.

Regardless of cause, late proposals will not be accepted and will automatically be disqualified from further consideration. It shall be the Offeror's sole risk to assure proposals are submitted via the BidNet Direct procurement portal by the designated time. Late proposals will not be accepted.



**1.5 OFFEROR'S CERTIFICATION**

By submitting a response to this RFP, Offeror agrees to an understanding of and compliance with the specifications and requirements described in this RFP.

**1.6 COST OF PREPARING PROPOSALS****A. City Not Responsible for Preparation Costs.**

The costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by the City are entirely the responsibility of the Offeror. The City is not liable for any expense incurred by the Offeror in the preparation and presentation of their proposals.

**B. All Timely Submitted Materials Become City Property.**

All materials submitted in response to this RFP become the property of the City of Milton and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the City and Offeror resulting from this RFP process.

## SECTION 2: RFP STANDARD INFORMATION

### 2.0 AUTHORITY

This RFP is issued under the authority of the City of Milton. The RFP process is a procurement option allowing the award to be based on stated evaluation criteria. The RFP states the relative importance of all evaluation criteria. No other evaluation criteria, other than as outlined in the RFP, will be used.

### 2.1 OFFEROR COMPETITION

The City encourages free and open competition among Offerors. Whenever possible, the City will design specifications, proposal requests, and conditions to accomplish this objective, consistent with the necessity to satisfy the City's need to procure technically sound, cost-effective services and supplies.

### 2.2 RECEIPT OF PROPOSALS AND PUBLIC INSPECTION

#### A. Public Information.

All information received in response to this RFP, including copyrighted material, is deemed public information and will be made available for public viewing and copying after the time for receipt of qualifications has passed, and the award has been made, with the following four exceptions: (1) bona fide trade secrets meeting confidentiality requirements that have been properly marked, separated, and documented; (2) matters involving individual safety as determined by the City of Milton; (3) any company financial information requested by the City of Milton to determine vendor responsibility, unless prior written consent has been given by the Offeror; and (4) other constitutional protections.

#### B. Procurement Officer Review of Proposals.

Upon opening the submittals received in response to this RFP, the procurement office will review the proposals and separate out any information that meets the referenced exceptions in Section 2.2(A) above, providing the following conditions have been met:

1. Confidential information is clearly marked and separated from the rest of the submittal.
2. An affidavit from an Offeror's legal counsel attesting to and explaining the validity of the trade secret claim is attached to each submittal containing trade secrets. Please contact Honor Motes, Procurement Manager, for additional information.

Information separated out under this process will be available for review only by the procurement office, the evaluation committee members, and limited other designees. Offerors must be prepared to pay all legal costs and fees associated with defending a claim for confidentiality in

the event of a “right to know” (open records) request from another party.

## 2.3 CLASSIFICATION AND EVALUATION OF PROPOSALS

### A. Initial Classification of Proposals as Responsive or Nonresponsive.

Proposals may be found nonresponsive at any time during the evaluation process or contract negotiation, if any of the required information is not provided; the submitted price is found to be excessive or inadequate as measured by criteria stated in the RFP; or the qualification is not within the specifications described and required in the RFP. If a qualification is found to be nonresponsive, it will not be considered further.

### B. Determination of Responsibility.

The procurement office will determine if an Offeror has met the standards of responsibility. Such a determination may be made at any time during the evaluation process and through contract negotiation if information surfaces that would result in a determination of nonresponsive.

### C. Evaluation of Proposals.

The evaluation committee will evaluate the remaining proposals and recommend whether to award the contract to the highest scoring Offeror or, if necessary, to seek discussion/negotiation in order to determine the highest scoring Offeror. All responsive proposals will be evaluated based on stated evaluation criteria. In scoring against stated criteria, the City may consider such factors as accepted industry standards and a comparative evaluation of all other qualified RFP responses. These scores will be used to determine the most advantageous offering to the City.

### D. Completeness of Proposals.

Selection and award will be based on the Offeror’s proposals and other items outlined in this RFP. Submitted responses may not include references to information located elsewhere, such as Internet websites or libraries, unless specifically requested. Information or materials presented by Offerors outside the formal response or subsequent discussion/negotiation, if requested, will not be considered, will have no bearing on any award, and may result in the Offeror being disqualified from further consideration.

### E. Opportunity for Discussion/Negotiation and/or Oral Presentation/Product Demonstration.

After receipt of all proposals and prior to the determination of the award, the City may initiate discussions with one or more Offerors

should clarification or negotiation be necessary. Offerors may also be required to make an oral presentation and/or product demonstration to clarify their RFP response or to further define their offer. In either case, Offerors should be prepared to send qualified personnel to Milton, Georgia to discuss technical and contractual aspects of the submittal. Oral presentations and product demonstrations, if requested, shall be at the Offeror's expense.

F. Best and Final Offer

The "Best and Final Offer" is an option available to the City under the RFP process which permits the City to request a "best and final offer" from one or more offerors if additional information is required to make a final decision. Offerors may be contacted asking that they submit their "best and final offer," which must include any and all discussed and/or negotiated changes. The City reserves the right to request a "best and final offer" for this RFP, if any, based on price/cost alone.

G. Evaluation Committee Recommendation for Contract Award.

The evaluation committee will provide a written recommendation for contract award.

H. Request for Documents Notice.

Upon concurrence with the evaluation committee's recommendation for contract award, the procurement officer may issue a "Request for Documents Notice" to the highest scoring Offeror to obtain the required insurance documents, contract performance security, and any other necessary documents. Receipt of the "Request for Documents Notice" does not constitute a contract and no work may begin until a contract signed by all parties is in place.

I. Contract Negotiation.

The procurement officer and/or city department representatives may begin contract negotiation with the responsive and responsible Offeror whose submittal achieves the highest score and is, therefore, the most advantageous to the City. If contract negotiation is unsuccessful or the highest scoring Offeror fails to provide necessary documents or information in a timely manner, or fails to negotiate in good faith, the City may terminate negotiations and begin negotiations with the next highest scoring Offeror.

J. Contract Award.

Contract award, if any, will be made to the highest scoring Offeror who provides all required documents and successfully completes contract negotiation.

## **2.4 RIGHTS RESERVED**

While the City has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the City of Milton to award and execute a contract. Upon a determination such actions would be in its best interest, the City, in its sole discretion, reserves the right to:

1. Modify, cancel, or terminate this RFP,
2. Reject any or all proposals received in response to this RFP,
3. Select an Offeror without holding interviews,
4. Waive any undesirable, inconsequential, or inconsistent provisions of this RFP which would not have significant impact on any submittal,
5. To request further documentation or information, and to discuss a RFP submittal for any purpose in order to answer questions or to provide clarification,
6. Award a portion of this RFP or not award any portion of this RFP if it is in the best interest of the City not to proceed with contract execution; or
7. If awarded, terminate any contract in accordance with the terms and conditions of the contract if the City determines adequate funds are not available.

## SECTION 3: SCOPE OF WORK, SPECIFICATONS, AND REQUIREMENTS

### 3.0 GENERAL SCOPE OF SERVICES

The City of Milton (City), is seeking written proposals from qualified vendors for the implementation of a comprehensive Hosted Managed VoIP Solution. Offeror should have adequate prior experience working with local government. The City of Milton is looking for two potential systems to be proposed:

1. **A hosted VOIP system of the vendors choosing.** This can be any hosted VOIP system the vendor would recommend.
2. **A Microsoft Teams solution.** The City would like to see a proposal for a Teams based phone system. This would need to include the appropriate Microsoft 365 licensing or Office 365 licensing what would be needed. Note: The City is currently in the O365 G licensing space but will be moving to M365 G licensing.

If the proposing firm does not have the capabilities to design or deploy a Microsoft Teams solution, they can still propose a solution they feel would fit the requirements and needs the City has listed in this RFP.

Proposals at a minimum should include:

- Answers to each of the items listed in Tasks 1-6. Responses for each task do not have to be line but can be in a summary format.
- A full scope of work done by the Offeror and any subcontractor they may engage to fulfill the scope of work.
- Initial VoIP requirements review and implementation of managed VoIP Solution for the following departments:
  - Police
  - Fire
  - City Manager's Office
  - City Clerk
  - Community Development
  - Public Works
  - Municipal Court
  - Communications
  - Human Resources
  - Finance
  - Information Technology
  - Parks & Recreation
- A detailed training program for City users
- Detailed project plan with a designated Project Manager that will work with the City as the Point of Contract throughout the project.

- An overview of their technical support structure, along with SLAs for support.
- A detailed cost breakdown including any post implementation support options. A copy of the Offeror's standard Annual maintenance contract, with expected cost for support, upgrades, and any software licenses that may be needed.

**Note:** The proposed system must work in the following environment:

- Standard PCs running Microsoft Windows 10/11.
- Enterprise environment running Microsoft server 2016/2019/2022 and SQL 2016 and later, also with Sentinel One anti-virus.
- Mobile devices and tablets using iOS or Android platforms.

The Offeror shall demonstrate the ability to meet all technical requirements and complete all tasks outlined in this RFP and provide reference projects which demonstrate successful completion of similar projects.

Described below is overall project scope of services to be provided and system requirements.

### **Overview of Current Milton System**

Currently, the City of Milton is using an outdated ShoreTel on-premises VOIP system. The ShoreTel Director software is on version 14.2 build 19.48.5800.0 running on a Windows virtual server in a VMware ESXi 6.5 environment. The system has (2) ShoreTel SG-90-2 VOIP switches servicing the two primary locations, City Hall and the Public Safety Complex. There are a total of 97 handsets with a mix of models, IP230g, IP480, IP480g, IP560, ShorePhone IP8000. The City currently has (4) remote Fire Stations and a Community Center that all have phones on the current system that are connected back to City Hall by VPN tunnels.

### **Task 1: Core Functionality**

#### **A. Organization System Phone Directory.**

- System must have a built-in phone directory available on all handsets and softphone applications.
- Does the system have a one button connect or auto connection to any extension in the directory. Describe how the directory and auto/one button connect will work when dialing an extension

located in the directory.

**B. Describe any hoteling feature and how it would work.**

- Would we need a pin to sign on to the phone? Describe the process to sign on and sign off.

**C. Describe the Systems Call Forwarding Capabilities.**

- We need the ability to forward a user's phone to their cell phone, along with the ability to cancel call forwarding either at the office or when working remotely.

**D. Call Transfer Process.**

- Describe the system's ability to transfer calls to mobile devices.
- Is the system able to pull calls back after they have been transferred?
- Is the system able to forward a user's phone to their home or cell phone?

**E. Describe any specific mobility features as well as the ability to support remote workers.**

**F. Physical Handset Options**

- Provide a list of all available handsets (wired or wireless headsets, soft client options/model), with estimated cost.
- Describe any limits to the number of handsets based on your solution.

**G. Application Integrations**

- Describe what types of business application integration the solution has. Highlight any integrations with Microsoft 365.

**H. Conference Calling**

- Describe the internal conference bridge capabilities and capacities.
- Can reports be pulled after a conference call indicating how many people were on the call, when they joined the call, when they disconnected from the call, and the caller ID from their dial-in number?

**I. Call Recording**

- Is there the option to record calls on demand and have restricted access to listen to those calls. Describe how this will work.
- Does the system have the ability to record all calls coming into and out of specific phone numbers?
- Can conference calls be recorded?

**J. Fax Capabilities**

- Describe the inbound and outbound fax capabilities of your solution.
- Describe how they can integrate with Microsoft Outlook.

**K. Caller ID and Call tracking**

- We need the ability to track the original caller ID through the duration of the call even if the call is transferred.
- We need to have incoming caller ID displayed on our handset and soft phone.

**L. Branding**

- Can we have our company logo appear on the display of all our



- handsets when they are on-hook and idle? Describe our options.
- If a softphone client is available is there the option to have it customized with the City logo and colors?

### **Task 2: Survivability and Disaster Recovery**

- A. Describe redundancy and disaster recovery options and procedures.
- B. Describe the process and estimated timelines in the event the system fails.
- C. Describe any available forms of notification in the event of system failure.
- D. Describe any available forms of notification when the system is back online.
- E. Is there any indication on the handset display to indicate the system is down?

### **Task 3: Value Added Products and Services**

- A. Include any additional products and/or services available that the vendor currently offers in their normal course of business that is not included in the scope of this RFP that you think will enhance and add value to the proposed product.

### **Task 4: Maintenance Support**

- A. Describe onsite and remote support for hardware and software both pre- and post-cut-over.
- B. Will there be an installation technician onsite for the cut-over and for in-service support after the cut-over? If yes, describe their availability during the cut-over and post-cut-over.
- C. Describe both onsite and remote support after cut-over. Describe detailed SLA information for major and minor outages, including response times for both remote and onsite support. Describe major and minor criteria for maintenance issues. Detail response times for major and minor maintenance issues.
- D. Describe in detail ongoing maintenance fees and contract costs. Will patches and updates be included in our maintenance costs? Describe management of updates, patches, and upgrades. Are they included as part of the maintenance contract? This will include operating system updates as well as system upgrades and patches.

### **Task 5: Licensing**

- A. Describe the licensing structure and ease of acquiring additional licenses

or removing licenses as needed.

- B. What is the process for procuring additional licenses?
- C. How long does it take to add additional licenses on average?
- D. Describe your billing process and any true ups associated with it.

### **Task 5: Training**

- A. Describe training for both users and administrators. Provide specific information regarding training for the receptionist, administrative assistants, and users (remote and in the office). How long is the training? Will a trainer be sent to the site? Will a trainer be available at our office post-cut-over to assist users? How long will the trainer be available?
- B. Describe system administration and maintenance training. How long is the training? Will a trainer come to the site, or will we attend training at a different location? Is training available online? Describe all available training options for system administration and maintenance training.

## **SECTION 4: OFFEROR PROPOSALS**

### **4.0 CITY'S RIGHT TO INVESTIGATE**

The City may make such investigations as deemed necessary to determine the ability of the Offeror to provide the supplies and/or perform the services specified.

### **4.1 OFFEROR INFORMATIONAL REQUIREMENTS**

Firms interested in providing the services described in this RFP should be able to demonstrate experience in the areas described in Section 3.

**SECTION 5: COST PROPOSAL**



The Offeror's cost proposal shall be signed by an authorized agent of the company. There is no maximum page limit to section 5.

The undersigned Offeror, having familiarized themselves with the work required by the RFP, the solicitation documents, the site where the work is to be performed, all laws, regulations, and other factors affecting performance of the work, and having satisfied itself/himself/herself of the expense and difficulties attending performance of the work; Hereby proposes and agrees, if this offer for the above named project is accepted to enter into a contract to perform all work necessary to the successful completion of the contract; and to supply all required submittals as indicated or specified in the RFP and the bid documents to be performed or furnished by Offeror for the total contract price of:

Item 1. Price for all equipment, support, implementation and training costs \$ \_\_\_\_\_

Item 2. Total Maintenance Fees from table below: \$ \_\_\_\_\_

Year 1 Maintenance Fee:	\$
Year 2 Maintenance Fee:	\$
Year 3 Maintenance Fee:	\$
Year 4 Maintenance Fee:	\$
Year 5 Maintenance Fee	\$

**Total Price (sum of Item 1 and Item 2):** \$ \_\_\_\_\_

**Print Total Price in Words:** \_\_\_\_\_

Print/Type Company Name: \_\_\_\_\_

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

Print/Type Name and Title \_\_\_\_\_

## SECTION 6: EVALUATION CRITERIA

### 6.0 EVALUATION CRITERIA

The evaluation committee will review and evaluate the proposals according to the following criteria:

- A selection team representing both Cities will initially evaluate and score all submittals received.
- Proposals not meeting the minimum requirements and those who are non-responsive will not be considered.
- Cost Proposals will be reviewed after the technical review process.

#### Proposal Evaluation Criteria

- |  |                |
|--|----------------|
| 1. Proposed solution(s) ability to meet the requirements of this RFP   | <b>30 pts</b>  |
| <ul style="list-style-type: none"> <li>○ Core Functionality (reference Task 1)</li> <li>○ Survivability and Disaster Recovery (reference Task 2)</li> </ul>  |                |
| 2. Project Plan and Deployment Schedule  | <b>15 pts.</b> |
| <ul style="list-style-type: none"> <li>○ Project approach</li> <li>○ Project team credentials/certifications</li> <li>○ Schedule</li> </ul>  |                |
| 3. Managed VOIP provider's maintenance and support capabilities and SLAs   | <b>20 pts.</b> |
| <ul style="list-style-type: none"> <li>○ Organization strength and stability</li> <li>○ Education and experience of the assigned staff</li> <li>○ Key personnel's level of involvement</li> <li>○ Proximity and availability of key personnel</li> </ul> |                |
| 4. Reference Checks  | <b>10 pts.</b> |
| <ul style="list-style-type: none"> <li>○ Vendor's qualifications and stability</li> <li>○ Last 5 implementations</li> <li>○ Level, Quality, and type of client training and technical assistance provided.</li> </ul>                                    |                |
| 5. Total Cost, which considers both initial acquisition and ongoing  | <b>25 pts.</b> |

**Total Possible Points Available are 100 points.***1. Interviews and Product Demonstration*

If applicable, short-listed Vendors will be invited to make a presentation to the City of Milton. At this time, they can provide live demonstrations and discuss the benefits with the City. A question and answer will follow the presentation.

*2. Final Ranking*

Upon completion of the interviews and demonstrations, the evaluation committee will rank the short-listed proposals based on a combination of the evaluation scores and presentation scores. The top-ranked proposal will be recommended for contract award, pending successful negotiations.

## **SECTION 7: STANDARD CONTRACT INFORMATION**

### **7.0 STANDARD CONTRACT**

The City's standard contract is attached to this document as Appendix A. Offeror should notify the City of any terms within the standard contract that preclude them from responding to the RFP. This notification must be made by the deadline for receipt of written/e-mailed questions or with the Offeror's RFP response. Any requests for material, substantive, important exceptions to the standard contract will be addressed in any formal written addendum issued by the procurement officer in charge of the solicitation. The City reserves the right to address any non-material, minor, insubstantial exceptions to the standard contract with the highest scoring Offeror at the time of contract negotiation.

### **7.1 ADDITIONAL CONTRACT PROVISIONS AND TERMS**

This RFP and any addenda, the Offeror's RFP response, including any amendments, a best and final offer, any clarification question responses, and any negotiations shall be included in any resulting contract. The City's standard contract, attached as Appendix A, contains the contract terms and conditions which will form the basis of any contract negotiated between the City and the highest scoring Offeror. The contract language contained in Appendix A does not define the total extent of the contract language that may be negotiated. In the event of a dispute as to the duties and responsibilities of the parties under this contract, the contract, along with any attachments prepared by the City, will govern in the same order of precedence as listed in the contract.

### **7.2 SUBCONTRACTOR**

The highest scoring Offeror will be the prime contractor if a contract is awarded and shall be responsible, in total, for all work of any sub-contractors. All sub-contractors, if any, must be listed in the proposals. The City reserves the right to approve all sub-contractors. The Contractor shall be responsible to the City for the acts and omissions of all sub-contractor or agents and of persons directly or indirectly employed by such sub-contractor, and for the acts and omissions of persons employed directly by the Contractor. Further, nothing contained within this document or any contract documents created as a result of any contract awards derived from this RFP shall create any contractual relationships between any subcontractor and the City.

### **7.3 GENERAL INSURANCE REQUIREMENTS**

See sample contract.

#### **7.4 COMPLIANCE WITH WORKERS' COMPENSATION ACT**

The Contractor is required to supply the City of Milton with proof of compliance with the Workers' Compensation Act while performing work for the City. Neither the Contractor nor its employees are employees of the City. The proof of insurance/exemption must be received by the City of Milton within ten (10) working days of the Request for Documents Notice and must be kept current for the entire term of the contract.

CONTRACTS WILL NOT BE ISSUED TO OFFERORS WHO FAIL TO PROVIDE THE REQUIRED DOCUMENTATION WITHIN THE ALLOTTED TIME FRAME.

#### **7.5 COMPLIANCE WITH LAWS**

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or sub-contracting by the Contractor subjects sub-contractors to the same provision. The Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

#### **7.6 CONTRACT TERMINATION**

See sample contract.

**~ SAMPLE CONTRACT INTENTIONALLY OMITTED ~**





**ACKNOWLEDGEMENT  
RECEIPT OF ADDENDUM #1  
RFP 23-IT01**

Upon receipt of documents, please email, fax or mail this page to:

City of Milton  
Attn: Honor Motes, Purchasing Office  
2006 Heritage Walk  
Milton, GA 30004  
Phone: 678-242-2500  
Fax: 678-242-2499  
Email: [honor.motes@miltonga.gov](mailto:honor.motes@miltonga.gov)

I hereby acknowledge receipt of documents pertaining to the above referenced RFP.

COMPANY NAME: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

\_\_\_\_\_  
Signature  
ADDENDUM #1

\_\_\_\_\_  
Date

**ADDENDUM #1  
RFP 23-IT01**

**\*\*Due date for submitting proposals has been extended to 2:00 p.m. on Wednesday, April 5, 2023 \*\***

Questions and **Answers**

This Addendum forms a part of the contract documents and **modifies** the original ITB documents as noted below:

1. I've reviewed the RFP documents and there are no specifics listed as to quantities of licenses/devices. Are you able to provide this type of information or can you please let me know when it will be available? ~ **200 users and 100 devices (phones/handsets)**
2. Are the details about internet speeds, provider, and medium of delivery (fiber, coax, etc) available for the locations listed in the RFP that will be receiving VOIP service? ~ **Internet speeds at each location are 100 mbps, with a 1 gbps direct fiber circuit between City Hall and PD. The 4 Fire stations have 250 mbps fiber internet circuits.**
3. Do all of the locations currently have PoE switches to accommodate a VOIP phone system? ~ **All locations run PoE Cisco switches, either Catalyst 2960X or Catalyst 9200**
4. What is the total number of DIDs or individual phone numbers that will need to be supported by the replacement solution? Thanks! ~ **The total number of DIDS is 130**
5. What are the Total Number of users who need to be setup with Teams Phone System? ~ **130**
6. Do you require a Contact Center (Call Center)? ~ **No, a contact Center is not needed, but we would possible like to see how it operates and may add it.**
7. How many users will be enabled for Contact Center? ~ **See the answer above about the Contact Center**
8. Does the proposed solution need to support analog devices? ~ **Yes, it will need to support fax lines (or have an efax option) and our elevator/fire alarms at some locations.**
9. What is the total count of analog devices? Are they mostly Fax and Card Readers or do they have analog phones too? Mention count of each where possible. ~ **there are approximately 10 fax lines.**

10. Do you need Paging? Do you have existing Paging solutions that need to be integrated? Please share number of devices that would require analogue connectors for Paging? ~ there is no need for paging at this point, but we would like the system to be capable of adding this feature in the future.
11. How many Desk phones, Conference phones, video conference phones are required? Write individual count of each type as well as model and brand preference. ~
- Desk phones= 98 total phone splits between these models-
    - o 41 IP480g Mitel/Shortel
    - o 2-IP560 Mitel/Shortel
    - o 1-IP655 Mitel/Shortel
    - o 16-IP480 Mitel/Shortel
    - o 38- IP230g Mitel/Shortel
  - Conference phones= 8
  - Video Conference phones= 0
12. Where are Customer Emails hosted? ~ Microsoft 365 GCC
13. Are you open to switching existing Telecom Provider? What is the name of existing provider? ~ Yes, AT&T
14. Do you need to Port Phone Numbers? How many Phone numbers need to be ported? ~ Yes, if we switch providers. The current range of numbers goes from 2481-2780, a total of 299.
15. Have funds been appropriated and made available for this Contract? ~ Yes. If so, for how many years of performance? ~ For the first year of service and annual after. If not, when does the City anticipate funds being appropriated and made available? ~ Funding has been appropriated and is now available. How will Offerors be so notified? ~ this Addendum serves as official notification.
16. We plan on being present for the onsite visit on the 15th. We'd like to include a member of our team remotely. Are there call-in/conferencing options for this event? ~ this is more of a "job-walk" for attendees to view our office and equipment; therefore, we will not have the capability for conferencing options. Questions will not be taken at the onsite visit, but must be submitted online via our procurement portal, BidNet Direct. Answers will be published in the formal Addendum.
17. Are you planning on purchasing new phones as part of the new solution as opposed trying to keep and utilize existing phones? Just wishing to confirm. ~ We will purchase new phones for staff that want a physical handset.

18. Do you already have existing ethernet drops and ports available at all handset locations as well as switch ports available. In other words are you expecting bid winner to provider new wiring or just use existing wiring and ports that already exist. ~ **The Contractor (winning bidder) will not have to do any cabling. Cabling already exists in all City buildings.**
  
19. Can you provide an address list of every department needing phones with number of phones at each location per the below. Name of Department How Many phones needed at location Address ~ **Our current system does not allow us to separate phones by location. We are estimating there are 60-70 phones at City Hall (Public Works, Finance, Community Development, IT, Parks and Recreation, City Management, City Clerk, and Communications). 20-30 phones at the Public Safety Complex and remote fire stations.**
  
20. Please advise any locations where a conference phone would be needed? Name of department and address. ~ **(5) Conference Phones at City Hall, and (4) at the Public Safety Complex (3 for PD and 1 for Fire)**
  
21. Please confirm if a standard 3 year term is acceptable. could not find a term length noted on the RFP requirements. ~ **Per O.C.G.A. our contracts are required to terminate annually either at the end of our fiscal year or calendar year, with the option for auto-renewal. It's our intent for this contract to have a minimum of two annual renewals after the initial year.**
  
22. What is the city currently using for Directory services? (Active directory, SailPoint, AWS, etc)? ~ **Active Directory**
  
23. Does the proposed phone system need to support this. In other words does any of the agency departments receive 911 calls and dispatch any emergency services or is this handled by county and or federal partner agencies.~ **We do not currently dispatch 911 calls.**
  
24. What is the city currently using for Directory services? (Active directory, SailPoint, AWS, etc)? ~ **Active Directory**
  
25. What type of PSTN services is the city using on the existing PBX (T1/PRI, SIP Trunks and/or Copper POTS lines)? Who is the current PSTN carrier(s) Does the county have a feel for how many Inbound and outbound PSTN Calls are managed by the city in an average Month? ~ **SIP, AT&T, we do not have stats on inbound or outbound calls.**
  
26. Would it be possible to provide information as it relates to the Type and number of phones as well as PSTN Lines/trunks listed by department/location? Milton City Department City Building Name/address PSTN Trunk Circuit Type & number of

trunks/lines (T1/PRI, SIP Copper POTS) VOIP Desktop Admin Phones required  
 Common Area VOIP Phones required VOIP Admin Softphones Required Analog  
 Devices (Fax, Elevator, etc) Required Police Fire City Manager's City Clerk  
 Community Dev Public Works Municipal Court Communications Human  
 Resources Finance Information Tech Parks & Recreation ~ **Type and number of  
 phones was given in another answers already. SIP trunks are in use at all City  
 buildings, a total of 2 at City Hall and 2 at the Public Safety complex. Analog  
 lines are used for elevator alarms (2), some faxes (3-4)**

27. What Voice messaging platform (Auto attendant and Voice Mail) is the county currently using? Is it locally hosted or in the cloud? How many Voice Mailboxes do you require? ~ **Shortel, on premise, 100 mailboxes is a safe bet.**
28. How many Auto Attendant Menu tree's do you require? Do you require multi-lingual AA Menus Do you require Unified Messaging (VM Messages sent to users email account)? ~ **4, no multi-lingual is needed as of now.**
29. Does the county already have enough POE and QOS enabled data/Ethernet L3/L4 based Switch ports in place to support the VOIP phones needed for this project? Or Do we need to include Power bricks for local power. ~ **Yes, there are enough PoE switches no power bricks needed.**
30. Does the County require any Voice Only and/or Omni Channel (Voice, Email, Chat, Fax, etc.) based Contact Center/ACD functionality? If yes, can you please elaborate on the number of: Contact Center Groups/splits needed Contact Center Agents (Named and Concurrent) needed Contact Center Supervisor Positions- Can see real-time agent and call center stats as well as pull/schedule reports Contact Center custom announcements needed ~ **No**
31. Do you have any Interactive Voice Response requirements. List Any advance CC/ACD Functionality in place currently Email queuing and auto-reply Chat queueing Call recording ~ **No**
32. Are there any overhead paging interface requirements? If yes please describe what buildings have it and is it all call paging, zone-based paging, or both? ~ **No**
33. What is the current interface to the PBX, Station, or Trunk port(s)? ~ **SIP Trunks**
34. What type of administration and/or End-user training is preferred by the city? Is onsite training required or is Remote Webex based training, ok? ~ **Either remote or in person**
35. How many training sessions per day and how many days would you like to see included in our proposal? Do you prefer "Train the Trainer" type training- in

where the Contractor would train a select group of Staff who in turn would train the remaining staff. Or do you prefer Classroom based training for all staff members? ~Train the trainer is fine or classroom training either in person or remote.

36. CONTRACTOR AFFIDAVIT AND AGREEMENT requires signature and notary, is electronic signature and notary acceptable? ~ Yes
37. For the required Cover Page, is electronic signature acceptable? ~ Yes
38. Technical Proposal can be no more than twenty (20) single sided pages. Cover page(s), table of contents, tabs, and required forms do not count toward the page limit. Do separately labeled sections such as executive summary, corporate overview, case studies, and summary of solution features count toward the 20-page Technical Proposal limit? ~ The summary of solution features would be considered part of the technical proposal; however, the other pages would not count towards that limitation.
39. And how many telephones or user are there per location? ~ This information was provided in a previous questions
40. Are there any analog lines? How many analogs at each location? ~ 8, 4 at City Hall and 4 at the Public Safety Complex
41. Does this IP network currently allow for QoS (Quality of Service) at all locations? ~ Yes
42. Does the IP network reach all locations? ~ Yes
43. Do all locations have POE (Power over Ethernet) capabilities at all locations? ~ Yes
44. Is local trunking provided, SIP trunks or PRI already in place? Who is the service provider? ~ SIP trunks w/t AT&T
45. For eFax service: is there an estimate of total traffic required (inbound/outbound pages/month?) ~ No
46. For eFax service: how many DIDs does the City currently have for inbound fax? ~ Approximately 10

- 47. Given that questions will not be answered until 3/22, can you please extend the RFP response time for another three (3) weeks? ~ The due date for submitting proposals has been extended to 2:00 p.m. on Wednesday, April 5, 2023.
- 48. What licenses do you have with Microsoft? You mention having the G series licenses but are they G1, G3, G5? If G1 or G3 do you have the Phone System add-on license? ~ **G1 and G3 without the Teams Phone licensing**
- 49. Is this agreement expected to be Fed Ramp Moderate (on-shore) compliant? ~ **No**
- 50. What ISP is being used to support the City of Milton? Will this RFP include replacing the existing ISP? Is so, what requirements are needed (i.e. speed/router type)? ~ **AT&T, no replacing the ISP isn't a requirement, but may be considered.**
- 51. Section 1, page 10, 4b. Work Plan - It states: "provide an anticipated project schedule with 12/1/22 as an assumed Notice to Proceed." Please provide the corrected date. ~ It's anticipated the Notice to Proceed would be issued immediately after the contract award which is proposed to be by mid-May 2023.
- 52. How many users are at the Fire Hall and Community Center? Are those users included in the total of 97? ~ **This information was provided in a previous questions**
- 53. What is the total number of conference rooms? What is the capacity of each? ~ **8, capacity varies from 15-20**
- 54. When do you anticipate changing the current Microsoft license to M365G? ~ **April 2023**
- 55. What is the current faxing solution? Is it email faxing or is it machine based, traditional wired lines? ~ **Analog, through the VOIP system and some dedicated lines**
- 56. Is 97 handsets the total amount for the whole city? Do you require additional ones preconfigured for possible new employees? How many total handsets (including extra) are required? How many total users? How many phone numbers are in your current inventory (local, toll-free)? ~ **97 is total amount, we'll purchase extra phones as needed.**

57. Section 6 (Evaluation Criteria, first bullet): Please confirm this RFP is only for the City of Milton, the sentence in bullet 1 indicates "Cities". ~ Yes, just the City of Milton.





**CITY OF MILTON REQUEST FOR PROPOSALS**  
(THIS IS NOT AN ORDER)

<b>RFP Number:</b> 23-IT01	<b>RFP Title:</b> Managed VoIP Solution
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<p><b>Due Date and Time: March 29, 2023 by 2:00 pm EST</b>                  **Pending updates relating to COVID-19 the City may conduct the bid opening via a virtual meeting. Responding bidders will be emailed a meeting link should the need to hold this type meeting arise.</p>	<b>Number of Pages: 50</b>
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ISSUING DEPARTMENT INFORMATION

<b>Issue Date: March 2, 2023</b>	
<b>City of Milton</b> <b>IT Department</b> <b>2006 Heritage Walk</b> <b>Milton, GA 30004</b>	<b>Phone: 678-242-2500</b>  <b>Website: <a href="http://www.miltonga.gov">www.miltonga.gov</a></b>

INSTRUCTIONS TO OFFERORS

<p><b>Electronic Submittal:</b> **Proposals must be submitted electronically via Milton's BidNet procurement portal/platform at <a href="http://www.miltonga.gov">www.miltonga.gov</a></p> <p>If you have not registered as a vendor via BidNet we encourage you to register. There is no cost to join, and you will be notified of any potential bid opportunities with the City of Milton as well as other agencies who are part of the Georgia Purchasing Group.</p>	<p><b>Mark Envelope/Package:</b>  <b>RFP Number: 23-IT01</b>  <b>Name of Company or Firm</b></p> <p><b>Special Instructions:</b>  <b>Deadline for Written Questions</b>  <b>March 17, 2023 by 5:00 PM EST</b></p> <p><b>Submit questions online via the BidNet Direct procurement portal at <a href="http://www.miltonga.gov">www.miltonga.gov</a></b></p>
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IMPORTANT: SEE STANDARD TERMS AND CONDITIONS

OFFERORS MUST COMPLETE THE FOLLOWING

<b>Offeror Name/Address:</b> Vertical Communications, Inc. 1000 Holcomb Woods Pkwy, St.415 Roswell, GA 30076	<b>Authorized Offeror Signatory:</b> DocuSigned by: <i>K. Keith Drew</i> K. Keith Drew (Please print name and sign in ink)
<b>Offeror Phone Number:</b> 678-892-8023	<b>Offeror FAX Number:</b> 770-446-3330
<b>Offeror Federal I.D. Number:</b> 86-0446453	<b>Offeror E-mail Address:</b> kdrew@vertical.com

OFFERORS MUST RETURN THIS COVER SHEET WITH RFP RESPONSE





April 5<sup>th</sup>, 2022

On behalf of Vertical Communications, I would like to thank you for the opportunity to partner with the City of Milton and GoToConnect in providing your business communications systems and services. For more than 50 years our success in serving organizations like yours has been attributed to providing world-class solutions from top manufacturers and developers in the areas of Voice, Data, IP, SIP and Video Solutions; Security Provisions; Infrastructure Management; and Finance Management.

More than building phone systems, Vertical prides itself on building solid, long-lasting business relationships with our customers. Once we have developed a solid understanding of your organization and its requirements, we continue to work with you to provide the best possible solutions tailored to your unique needs. Solutions designed to increase efficiency, productivity and revenue for your organization, while at the same time saving you money by maximizing your current resources and cutting costs. Solutions that revolve around a proven track record of serving more than 10,000 customers, as well as long-standing partnerships with high-end service providers and leading equipment manufacturers to further benefit your business.

We know you have many options when it comes to selecting an experienced, knowledgeable, reliable partner in today's complex communications market, but I promise you won't find one more dedicated to your needs than Vertical Communications. We are committed to designing and implementing the best possible solutions to ensure your organization remains an effective steward of your citizen's resources as you grow in the years to come.

In the pages that follow, you will find GoToConnect's Hosted Cloud solution tailored to meet the needs of The City of Milton as you replace your current systems being used into a streamlined solution which will enhance the productivity of your stakeholders, while reducing the burden of your precious staffing resources to meet the needs of The City of Milton. But the vision contained within is more than a simple technical configuration. It is a partnership which starts with expertise and understanding, grows through implementation and changing needs, and continues through a global structure of support.

The people who work for Vertical have served on the cutting edge of telecommunications for many decades. This is part of the Vertical Difference and comes to Vertical through its acquisition of Fulton Communications in 2014. Together, we represent decades of experience and expertise meeting the needs of diverse customers, both large and small; local, regional, national, and even international customers by partnering with providers like GoToConnect. Our NOC, while physically located out of Roswell, GA, utilizes the services of over 30 trained staff in a virtual network throughout the U.S. to provide 7x24 support. For customers, such as The City of Milton, implementing in a cloud solution, having the right expertise to implement your solution correctly the first time is critical to a smooth transition. Knowing that your provider knows more than the basics, or even the core elements of a communications platform, allows The City of Milton to create a plan for implementation and growth that will allow you to achieve some or all of the vision and goals contained within the RFP; knowing the groundwork has been laid for any additions for the future.

In keeping with the requirements of the RFP, Vertical Communications has negotiated new phones at an advantageous price for most of your users, and a greatly reduced price for some of the more advanced phones. Since Vertical is in Roswell, we are also providing onsite implementation service for those phones, depending on the needs of The City of Milton at no additional charge. By providing local expertise, we do more than just act as an agent for cloud carriers. After training The City of Milton staff both technically, and through training resources from GoToConnect, multiple resources have been developed for your end-users, including continued support by Vertical after the sale.


In 2008, a tornado hit downtown Atlanta. In its path was the Georgia Dome and Georgia World Congress Center during the NCAA Basketball Tournament. The provider of data and telecom was CCLD, who had already been in discussion with Fulton Communications regarding a new system which would better meet the needs of the large campus-like environment. On that Saturday, we received a call from CCLD. Paperwork was signed and our crews jumped into action, providing the new solution in time for the events which could take place in buildings not too heavily damaged within the week. Eventually, the new system would support over 1,000 extensions as repairs were

made to the physical structures. This is just one example of the commitment of Vertical Communications to put the customer first.

For the purposes of the RFP, your primary contacts at Vertical Communications will be:

K. Keith Drew, Sr. Communications Consultant  
1000 Holcomb Woods Parkway, Suite 300  
Roswell, GA 30076  
678-892-8023 (direct)  
770-446-3330 (fax)  
[kdrew@vertical.com](mailto:kdrew@vertical.com)

Thank you again for your consideration. We look forward to a successful, long-term partnership with The City of Milton.

DocuSigned by:  
  
8623F985EC5E459..

Ben Treadway  
President  
Vertical Communications



**CITY OF MILTON DISCLOSURE FORM  
MUST BE RETURNED WITH PROPOSAL**

This form is for disclosure of campaign contributions and family member relations with City of Milton officials/employees.

Please complete this form and return as part of your RFP package when it is submitted.

Name of Offeror Vertical Communications, Inc.

Name and the official position of the Milton Official to whom the campaign contribution was made (Please use a separate form for each official to whom a contribution has been made in the past two (2) years.)

N/A

List the dollar amount/value and description of each campaign contribution made over the past two (2) years by the Applicant/Opponent to the named Milton Official.

Amount/Value	Description
_____	_____
_____	_____
_____	_____

Please list any family member that is currently (or has been employed within the last 12 months) by the City of Milton and your relation:

\_\_\_\_\_  
\_\_\_\_\_

5 | RFP 23-IT01



**RFP# 23-IT01  
PROPOSAL LETTER  
MUST BE RETURNED WITH PROPOSAL**

We propose to furnish and deliver any and all of the deliverables and services named in the Request for Proposal (23-IT01), Managed VoIP Solution.

It is understood and agreed that we have read the City's specifications shown or referenced in the RFP and that this proposal is made in accordance with the provisions of such specifications. By our written signature on this proposal, we guarantee and certify that all items included meet or exceed any and all such City specifications. We further agree, if awarded a contract, to deliver goods and services which meet or exceed the specifications. The City reserves the right to reject any or all proposals, waive technicalities, and informalities, and to make an award in the best interest of the City.

**PROPOSAL SIGNATURE AND CERTIFICATION**

I understand collusive bidding is a violation of State and Federal Law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of the proposal and certify that I am authorized to sign for my company. I further certify that the provisions of the Official Code of Georgia Annotated, Sections 45-10-20 et. seq. have not been violated and will not be violated in any respect.

Authorized Signature  Date 4/5/2023

Print/Type Name Ben Treadway

Print/Type Company Name Here vertical communications inc

6 | RFP 23-IT01



**CONTRACTOR AFFIDAVIT AND AGREEMENT**

**MUST BE RETURNED WITH PROPOSAL**

**STATE OF GEORGIA**

**CITY OF MILTON**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services on behalf of the City of Milton has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b).

Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

416577  
eVerify Number  
5/19/2011  
Date of Authorization  
Vertical Communications, Inc.  
Name of Contractor  
Managed VoIP Solution  
Name of Project  
City of Milton, Georgia  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on April, 4th, 2023  
in Roswell (city), GA (state).

DocuSigned by:  
[Signature]  
Signature of Authorized Officer or Agent  
8623F983EC6E459...  
Ben Treadway President

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE 4 DAY OF APRIL, 2023

[Signature]  
NOTARY PUBLIC

[NOTARY SEAL]

My Commission Expires:

Donna M Demarcus  
NOTARY PUBLIC  
Gwinnett County, GEORGIA  
My Comm. Expires  
12/1/2024

<b>CITY OF MILTON REQUEST FOR PROPOSALS</b> <b>(THIS IS NOT AN ORDER)</b>	
<b>RFP Number:</b> 23-IT01	<b>RFP Title:</b> Managed VoIP Solution
<b>Due Date and Time: March 29, 2023 by 2:00 pm EST</b> <i>**Pending updates relating to COVID-19 the City may conduct the bid opening via a virtual meeting. Responding bidders will be emailed a meeting link should the need to hold this type meeting arise.</i>	
<b>Number of Pages: 50</b>	
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<b>Issue Date: March 2, 2023</b>	
City of Milton IT Department 2006 Heritage Walk Milton, GA 30004	<b>Phone: 678-242-2500</b>  <b>Website: <a href="http://www.miltonga.gov">www.miltonga.gov</a></b>
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IMPORTANT: SEE STANDARD TERMS AND CONDITIONS	

OFFERORS MUST COMPLETE THE FOLLOWING	
Offeror Name/Address: GoTo Technologies USA, Inc. 333 Summer Street Boston, MA 02210	Authorized Offeror Signatures: <div style="border: 1px solid black; padding: 5px; display: inline-block;">                     Developed by                        Claire Bergen                      (Please print name and sign in ink)                 </div>
Offeror Phone Number: 1-833-851-8340	Offeror FAX Number: 1-781-998-7792
Offeror Federal I.D. Number: 81-2216538	Offeror E-mail Address: lars.larsen@goto.com
OFFERORS MUST RETURN THIS COVER SHEET WITH RFP RESPONSE	



**CITY OF MILTON DISCLOSURE FORM  
MUST BE RETURNED WITH PROPOSAL**

This form is for disclosure of campaign contributions and family member relations with City of Milton officials/employees.

Please complete this form and return as part of your RFP package when it is submitted.

not applicable.

Name of Offeror \_\_\_\_\_

Name and the official position of the Milton Official to whom the campaign contribution was made (Please use a separate form for each official to whom a contribution has been made in the past two (2) years.)

\_\_\_\_\_

List the dollar amount/value and description of each campaign contribution made over the past two (2) years by the Applicant/Opponent to the named Milton Official.

Amount/Value

Description

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please list any family member that is currently (or has been employed within the last 12 months) by the City of Milton and your relation:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_





**CONTRACTOR AFFIDAVIT AND AGREEMENT**

**MUST BE RETURNED WITH PROPOSAL**

**STATE OF GEORGIA**

**CITY OF MILTON**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services on behalf of the City of Milton has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b).

Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

1171969

eVerify Number

2/28/2017

Date of Authorization

GoTo Communications, Inc.

Name of Contractor

Managed VoIP Solution

Name of Project

City of Milton, Georgia

Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on March 14, 2023, 20    
in Boston, MA (city),    (state).

DocuSigned by

Bergen, Claire Authorized Officer or Agent

698A50A36AED4D2

Bergen, Claire Deputy General Counsel  
Printed Name and Title of Authorized Officer  
or Agent

SUBSCRIBED AND SWORN BEFORE ME ON  
THIS THE    DAY OF   , 20  

NOTARY PUBLIC

[NOTARY SEAL]

My Commission Expires:

# Technical Proposal

## Project Team

Your project team will consist of an Account Manager, Project Manager, Field Engineer, Project System Trainer, and others from GoTo. All members of your implementation team are highly qualified and skilled at implementing, maintaining and administering the GoToConnect solution. Specific information regarding qualifications can be provided once team members are assigned at time of contract acceptance.

## Work Plan

GoTo uses proven best practices and a proactive, high-touch approach to manage the implementation of all new GoTo Voice and UC solutions. Applied across the following phases of the implementation life cycle, the GoTo approach delivers consistent, high-quality results that minimize the pain traditionally associated with changing your telephone service provider while at the same time maximizing the impact of GoToConnect across your entire organization.

GoTo's general installation timeline varies based on client requests and complexity of the overall project (generally between 3 and 45 days). The details of each location and the overall project will be discussed and agreed upon at the initiation of the implementation phase.

Initiating: GoTo Project Managers (PMs) review expectations and gather customer information and preferences required for system configuration and number porting. They clearly define transition activities, timelines, and responsibilities for the customer and the GoTo implementation team. Detailed statement of work, project plan (with schedule), and preliminary order paperwork are prepared and presented to the customer for review and approval. GoTo engineers assess the current communications environment and identify system needs. They prepare a detailed assessment report and network diagram(s) outlining recommended network configuration.

Planning: The Project System Trainer or Field Engineer will hold a training with the customer and work together, with the customer, to build out the PBX. They establish a communications plan, scheduling regular status meetings with the customer and GoTo sales, engineering, training, project management, and deployment teams. They will work with you through system testing and training plans for the completed solution most fit for your needs.

Executing: GoTo engineers help to configure GoToConnect, providing requested guidance with dial plans and other features according to customer-provided specifications and preferences. Engineers also complete any specialized integration requirements, upon further scoping. Fulfillment specialists order equipment and monitor the number porting process. Regular status calls ensure the transition process stays on-track with established milestones and timelines.

**Testing:** GoTo quality assurance specialists test every feature to ensure it is operating correctly and in accordance with customer specifications. Engineers test the network configuration and, if applicable, test and turn up the GoTo broadband data connection. Fulfillment specialists test E911 configurations in compliance with Federal regulations. All GoTo hardware - including handsets, routers, and other equipment - arrives on the customer location pre-provisioned and ready for immediate plug-and-play. GoTo PMs and engineers work with the customer to test and verify all system features and functions. Dedicated project system trainers provide administrator and end user training to familiarize the customer with GoToConnect.

**Project Completion:** Numbers port from the losing carrier to GoTo, all system features and hardware endpoints are activated, and call processing (inward and outward) is initiated. Once live, a dedicated GoTo Customer Success Manager (SAM) is available to support the system and troubleshoot and resolve any service issues.

### Related projects and references

GoTo has been providing Hosted VoIP services since 2006 and has hundreds of thousands of users around the world. GoTo has numerous video testimonials and case studies from our current customers. demonstrating our experience. These can be found at the following link: [www.goto.com/resources](http://www.goto.com/resources).

City of Kennesaw, GA  
Rick Arnold  
[rarnold@kennesaw-ga.gov](mailto:rarnold@kennesaw-ga.gov)  
404-668-4720

City of Mansfield, TX  
Todd Williams  
[Todd.williams@mansfieldtexas.gov](mailto:Todd.williams@mansfieldtexas.gov)  
972-740-9990

City of La Mirada, CA  
Michael Tandiana  
[mtandiana@cityoflamirada.org](mailto:mtandiana@cityoflamirada.org)  
562-902-2353

Haltom City, TX  
Dave Klopfenstein  
[dklopfenstein@haltomcitytx.com](mailto:dklopfenstein@haltomcitytx.com)  
817-222-7707

City of Bell, CA  
Hector Martinez, Managed Services Director  
[hmartinez@inftechnologies.com](mailto:hmartinez@inftechnologies.com)  
714-409-3811

# Response to RFP Requirements

## Task 1: Core Functionality

### A. Organization Phone Directory

- System must have a built-in phone directory available on all handsets and softphone applications.

All recommended handsets support a personal directory. The personal directory supports up to 100 entries, with speed dials allowed for all entries. These directories are unique to each phone and managed by that phone's individual user either on the handset itself or within the administrator portal by clicking the Device Profile tab.

A local (internal) directory is a phone directory populated with contact information from the PBX. Within the PBX, an infinite number of local directories can be created and maintained. By default, the "Internal Directory" has all system extensions included. This type of directory allows inbound callers and internal users to reach their party without knowing their extension. The dial-by-name directory is accessed by inbound callers through a dial plan and by internal users through the \*11 star code. They are then prompted to spell the desired party's first or last name with the keypad. After that is done, the directory spells out the name on the extension (e.g. "Mike" would be pronounced "M-I-K-E"). However, directory names can be recorded by each individual user for their own extension or for the whole directory by users that have Prompt Recording Permissions. Local directory configuration settings are managed within the administrator portal by clicking on the Local Directories tab.

A corporate (external) directory is a directory populated with contact information from an external directory such as Microsoft Active Directory or OpenLDAP. Corporate directories use LDAP to communicate with a centralized directory service, allowing organizations to manage and store their directory in a one place. This single source helps keep information up-to-date and makes it easier for end users to look up individuals. Those responsible for implementing a corporate directory should be familiar with LDAP and work closely with their directory system administrator during configuration. Currently, only Polycom and Cisco SPA devices support a corporate (global) directory . All other devices will need to be configured manually per the manufacturer specifications.

- Does the system have a one button connect or auto connection to any extension in the directory Describe how the directory and auto/one button connect will work when dialing an extension located in the directory

Click to dial functionality is supported with GoToConnect. GoToConnect Web makes dialing easy by supporting click-to-call from Microsoft Outlook (2007 and later). From within Outlook, users can right-click on a contact and choose Dial from the context menu to initiate a call with that contact. In addition, click-to-dial functionality is available for use in major browsers. Users may also dial a call by clicking on the GoToConnect icon in the desktop toolbar or dock and then entering the phone number.

B. Describe any hoteling feature and how it would work.

Hot desking is fully supported. Hot desking loads your extension settings to a shared phone and uses it as your own (make/receive calls and check voicemail) regardless of where you physically sit. This star code allows you to initiate hot desking from a shared phone. When you're done, you can use the same steps to log out.

1. Dial \*43 from a shared phone.
2. Enter your numerical dialable username given to you by a system admin.
3. Enter your dialable password (default 0000).
4. To log out of a shared phone, dial \*43 again.

• Would we need a pin to sign on to the phone? Describe the process to sign on and sign off

A pin can be set for phones, however, this is not required.

C. Describe the Systems Call Forwarding Capabilities

Call forwarding for internal and external calls is included in the GoTo Connect solution. Calls can be forwarded and/or transferred manually from the handset or automatically through the administrator portal. GoTo Connect's Find Me/Follow Me feature also allows calls to be forwarded to any internal or external number. System extensions, voicemail boxes, and 10-digit internal and external numbers are all valid targets for call forwarding and transfer.

• We need the ability to forward a user's phone to their cell phone, along with the ability to cancel call forwarding either at the office or when working remotely.

Call forwarding for internal and external calls is included in the GoTo Connect solution. Calls can be forwarded and/or transferred manually from the handset or automatically through the administrator portal. GoTo Connect's Find Me/Follow Me feature also allows calls to be forwarded to any internal or external number. System extensions, voicemail boxes, and 10-digit internal and external numbers are all valid targets for call forwarding and transfer.

D. Call Transfer Process

- Describe the system's ability to transfer calls to mobile devices.

GoToConnect supports call transfer as an integrated part of the VoIP service. Calls can be transferred to any system extension, dial plan (and included auto attendant options), voicemail box, or call queue. Calls can also be transferred to any 10 digit number (on- or off-net).

Both warm/attended and blind/unattended transfers are supported and caller ID information passed through as described below:

- Warm / Attended Transfer: The extension of the phone transferring the call is displayed until the receiving party accepts the call, when the original caller ID information appears.
- Blind / Unattended Transfer: Only the originating caller's caller ID is displayed.

- Is the system able to pull calls back after they have been transferred?

See response above.

- Is the system able to forward a user's phone to their home or cell phone?

Yes. GoToConnect supports Find Me/Follow Me functionality. Within the end-user portal, a user simply lists numbers where he or she may need to be reached. Such numbers could include a home landline, a work cell phone, or a personal cell phone. The user stipulates whether these numbers are to ring simultaneously or sequentially. Once the list has been exhausted and no connection made, the system may route the call to voicemail, another extension, or any other point on the system (including a Dial Plan, call queue, or ring group).

E. Describe any specific mobility features as well as the ability to support remote workers.

GoTo offers users the ability to use their phone system wherever they have an internet connection. GoToConnect softphones are available in browser, on desktop, on iOS, and Android. All of these allow users to call, SMS, chat, and use video conferencing on the go. GoToConnect additionally supports hot desking allowing users to sign into their profile on multiple physical devices and softphones.

F. Physical Handset Options

- Provide a list of all available handsets (wired or wireless headsets, soft client options/model) with estimated cost.

Supported SIP handset endpoints include hardware from enterprise vendors including Cisco, Polycom, Yealink, and many others.

We have several headset options meeting these requirements that are available to you. Upon bid award we will work with you to ensure you are fit into a compatible headset.

GoTo supports a softphone (GoToConnect, which runs in a browser window or as a desktop app for PC and Mac) which provides the same basic features as a physical device. A smartphone app is also available for both the iPhone and Android, providing softphone capability on mobile devices. In many cases, this is an excellent solution for bridging the gap between desktop and mobile . GoTo supports softphone only user deployments as well as the option to deploy physical phones. Users can access the softphone if desired in addition to their physical phone for no additional charge.

- Describe any limits to the number of handsets based on your solution.

GoTo's Hosted VoIP platform, Jive Cloud, was designed as a true Cloud-based architecture. Jive Cloud was built to scale gracefully to hundreds of thousands of users on a single virtual cluster. GoTo's services are particularly scalable from the standpoint of adding services to an existing account. Individual capacity can be added as needed to accommodate growth, including both new handsets and additional Broadband Internet. GoTo also has many of the largest purely Hosted VoIP installations ever deployed.

### G. Application Integrations

- Describe what types of business application integration the solution has. Highlight any integrations with Microsoft 365.

Today, GoTo supports Microsoft Outlook integration to deliver click to call and LDAP/Active Directory functionality. GoToConnect integrates with Microsoft Outlook calendar to automatically display upcoming GoToConnect or GoToMeeting meetings on your calendar.

Information on GoTo's APIs can be found on the GoTo Developer Portal - <https://developer.goto.com/>

### H. Conference Calling

- Describe the internal conference bridge capabilities and capacities

#### Audio Only:

Every GoToConnect user is provided with an unlimited number of complimentary dial-in audio conference bridges. Each bridge is accessible with either a 10-digit telephone number or an extension. These conference bridges can host up to 25 simultaneous

users. All call participants are notified when new members enter or exit the call. Calls can be initiated and participants added with or without reservations. Parties may continue after the originating party has hung up (if using a conference bridge, as opposed to three-way calling). There are two ways for callers to get into a conference room: 1. When a user calls in, you can transfer them to the conference room extension. 2. The caller can navigate to the conference room via your dial plan. When the caller reaches an auto attendant, they can dial the conference room extension.

Video & Audio:

With GoToConnect you combine the power and reliability of GoTo's cloud VoIP phone system with GoToMeeting's web, audio, and video conferencing into one simple, reliable, and flexible solution. GoToConnect conference rooms support up to 250 participants and 25 HD Video webcams. These conference rooms offer dial-in options as well as the option to have the meeting conveniently call you. Each user will have their own personal meeting room URL, the ability to schedule meetings, and record their meetings. All call participants are notified when new members enter or exit the call. Calls can be initiated and participants added with or without reservations.

Can reports be pulled after a conference call indicating how many people were on the call, when they joined the call, when they disconnected from the call, and the caller ID from their dial-in number?

GoToConnect includes interactive reports accessible in real time within the GoToConnect administrator portal, many of which can be exported into a .csv file for data storage or manipulation. Reports may include the following data points:

- o Calls: total/mean/min/max by type, per day, by day of the week, by time of day, by state, per number/extension; abandoned calls
- o Minutes: total/mean/min/max by type, per day, by day of the week, by time of day, by state, per call, per number/extension
- o Top Numbers / Extensions: total/mean/min/max by calls, by minutes
- o Queue: statistics, scores, calls, minutes

Call Reports can be accessed via the GoToConnect administration portal. Within call reports there are Visual Summary Graphs that provide a quick snapshot of the calling activity on your system. This helps to identify trends, campaign effectiveness, calling spikes, and staffing needs.

Three additional reports are available for in-depth analytics:

User Activity - This provides call activity for each user. These high-level, user-specific numbers can serve as a good starting point for determining employee performance or



training opportunities. By default, results are sorted by total duration, potentially putting your most productive users at the top.

Phone Number Activity - This provides call activity from the perspective of your GoToConnect phone numbers. These high-level, number-specific details can serve as a great resource for managers needing to understand the call volume routing through their phone numbers to various sales and support teams. By default, results are sorted by total duration, putting your most active GoToConnect phone numbers at the top.

Caller Activity - This provides the activity for all the phone numbers that are calling into your system. You can see specific activity for each number, such as every outgoing and incoming call, date, and talk time.

Each of these reports can drill down to a *details page* for the specific caller, user, or phone number that has been selected.

4) *Call Recording*

- is there the option to record calls on demand and have restricted access to listen to those calls. Describe how this will work

GoToConnect's call recording application allows users to record some or all of the calls to and from their account. Administrators can enable system-wide recording or set up recording only on specific phone numbers and extensions. These settings can also be adjusted on an on-demand basis but must be in place before call recording can be initiated. Users can pause and resume call recording during a call if call recording has been enabled by dialing a code on their phone.

Call recordings are stored in the Cloud, so they can be accessed from virtually anywhere. Each customer has a choice regarding where the recordings are stored - They can set up their own AWS S3 storage bucket and provide credentials to the GoToConnect admin portal or they can opt to have call recordings hosted by GoTo. With the first option, the customer has full control of retention and access policies. In the second option, GoTo will keep the recordings for 20 weeks, then they will be deleted. It is possible, however, for the customer to download the recordings prior to that time.

Recordings are stored as .MP3 files if stored by GoTo. Users opting to store recordings in their own AWS S3 bucket can choose between MP3, WAV and WAV49 formats. GoToConnect automatically creates and organizes stored files by year, month, and day, respectively. Recordings can be accessed through Call Detail Reports where there is a link to play a particular recording as well as the button to download the recording.

- Does the system have the ability to record all calls coming into and out of specific phone numbers?

Yes. See response above.

- Can conference calls be recorded?

Yes. See response above.

#### J. Fax Capabilities

- Describe the inbound and outbound fax capabilities of your solution

GoToConnect can support traditional and virtual faxing. To support traditional fax, GoTo provisions an ATA that, when connected to the LAN, outputs an FXS (analog) line delivering dial tone to a fax machine. This device is placed next to the fax machine; inbound and outbound faxing occurs as normal.

Please note that the Cloud-based solution provides a simpler fax functionality in that all users automatically have the ability to virtually send and receive faxes using their GoToConnect account. This feature is provided at no additional charge. Incoming faxes are converted to .PDF files and are received by the user in his or her email inbox. The same users can send faxes by attaching any of a number of supported file types to an email message and sending it to the destination fax number via GoToConnect's email-to-fax feature. When sending a fax, a user will be prompted to enter a PIN for authentication purposes. This PIN will have been supplied to each user by the system administrator.

- Describe how they can integrate with Microsoft Outlook

GoToConnect supports Microsoft Outlook integration to deliver click to call and LDAP/Active Directory functionality.

#### K. Caller ID and Call tracking

- We need the ability to track the original caller ID through the duration of the call even if the call is transferred.

GoToConnect supports caller ID features at no additional cost. GoToConnect has options for modifying caller ID for outgoing or incoming calls, allowing users to control what information is seen before picking up a call. GoToConnect can interface with Caller ID offered from the local operating company as well as display both the name and the number of the caller. Calls can be viewed directly on the physical phone itself and call information is automatically maintained in call logs.

- We need to have incoming caller ID displayed on our handset and soft phone

This is supported.

### L Branding

- Can we have our company logo appear on the display of all our handsets when they are on-hook and idle? Describe our options

This is supported.

- If a softphone client is available is there the option to have it customized with the City logo and colors?

This is not currently supported.

## Task 2: Survivability and Disaster Recovery

### A Describe redundancy and disaster recovery options and procedures

From the host side:

Every level of Jive Cloud is engineered for redundancy and provides high availability and fault tolerance, achieving industry-leading uptime and reliability. At a basic level, GoTo's collocation facilities are best-in-breed and offer extremely high resilience to and redundancy against natural and man-made disasters. Within Jive Cloud, redundant equipment and network paths are maintained and deliver a highly available computing environment. Redundancy is even greater within this computing environment, as virtualization and true Cloud architecture provide complete software- and process-level redundancy.

All core call-processing intelligence is clustered and housed in geographically separated, fault tolerant co-location facilities with automatic failure-over. This allows us to guarantee an uptime of 99.99% in any calendar year.

The system also detects if a specific location is down and automatically re-routes calls/messages to a pre-determined location. For example, a call may be forwarded to a cell or home phone, emailed as a voice message, or a variety of other customizable scenarios. With GoToConnect, no matter the severity of a local situation, your communications are safe, redundant, and accessible via multiple devices.

From the client side:

GoToConnect's solution is well-equipped to deal with your Business Continuity and Disaster Recovery (BCDR). In the event that a major disaster closes a customer site, GoToConnect's Standalone VoIP solution provides a number of advantages over traditional analog telephone service.

First, our Standalone VoIP handsets are configured such that they will work from virtually any high-speed Broadband Internet connection. This means that staff can take their handsets to another site (such as another office location, or even to their home), plug them into the Internet, and be up and running exactly as if they were at the office—with the same access to voicemail, extension dialing, transferring, and all other features.

Second, if the magnitude of the disaster is such that handsets are inaccessible, replacement handsets can be ordered from GoTo. These handsets will be pre-programmed for plug-and-play installation, and can be shipped overnight for next-day delivery.

*Finally, in response to an adverse event, incoming calls can be rerouted to other locations, or even to a group of cellular phones.*

#### Customer Support SLAs

- We aim to achieve a 3-minute average speed of answer for inbound calls to Customer Support. We currently maintain an 80% success rate.
- We assign voicemails within the hour and respond within an hour of being assigned.
- We assign initial email correspondence within the hour and respond within an hour of being assigned.
- We respond to follow up emails within 24 hours.
- We automatically close correspondence with a customer after 72 hours of no response.

Further details at: <https://support.goto.com/connect/help/what-are-gotoconnects-customer-support-slax>

B. Describe the process and estimated timelines in the event the system falls.

See response above.

C. Describe any available forms of notification in the event of system failure.

GoTo automatically detects and notifies clients of any event, natural disaster or otherwise, which affects its hosted services. These notifications are delivered via email when possible, and include information related to the event including description, time, location, scope of impact, and other relevant details. GoTo also posts these notifications to its status website (<https://status.gotoconnect.com/>) in case email access is unavailable.

D. Describe any available forms of notification when the system is back online.

See response to C above.

E. Is there any indication on the handset display to indicate the system is down?

No. Notifications are described in C. above.

### Task 3: Value Added Products and Services

A. Include any additional products and/or services available that the vendor currently offers in their normal course of business that is not included in the scope of this RFP that you think will enhance and add value to the proposed product

As GoToConnect is a cloud-based solution, all of our features and functionality are cloud-provided. A feature list can be found here: <https://www.goto.com/connect/features>

### Task 4: Maintenance Support

A. Describe onsite and remote support for hardware and software both pre- and post-cut-over.

GoToCustomer Experience brings together the expertise of the GoTo Service Account Management, Technical Support, and Customer Service teams to deliver world-class, personalized service and support. All GoTo Customer Experience teams are Americas-based and available 24/7, through multiple channels, including toll free telephone and email. All access is unlimited and included in your monthly service fees. No additional contracts are required or fees apply.

B. Will there be an installation technician onsite for the cut-over and for in- service support after the cut-over? If yes, describe their availability during the cut-over and post-cut-over.

Because GoToConnect is a hosted UC solution, clients can typically install their own phone systems with help that is provided remotely by GoTo engineers. In most cases, the GoTo team is not needed on-site for system installations. Before the installation, GoTo field engineers will pre-configure the necessary hardware, including phones and server, before sending it to the client. Phones will be clearly labeled, and they are "plug and play," meaning that the client should be able to plug the phone in and have immediate results. HOWEVER, Vertical Communications will provide onsite support for the deployment and cut-over, as well as any onsite support needed post-cut-over.

C. Describe both onsite and remote support after cut-over. Describe detailed SLA information for major and minor outages, including response times for both remote and onsite support. Describe major and minor criteria for maintenance issues. Detail response times for major and minor maintenance issues.

A primary advantage of the hosted delivery model discussed in this proposal is that the vendor is completely responsible for all software maintenance and updates. GoTo manages and maintains all of the infrastructure, software, and hardware involved in delivery the solution, and ensures that everything is up-to-date. Jive Cloud is engineered in such a way that updates and

maintenance do not require scheduled downtime but can instead be rolled out across the platform during periods of low utilization. Also, our qualified maintenance and support team is available 24/7 to answer any questions or concerns. The Jive Cloud platform is deployed across multiple datacenters in the U.S. Account activities such as moves, adds, and changes, as well as call-flow configuration, are all done via GoToConnect's secure administrator portal. If assistance is needed, GoTo does not charge hourly rates for our customer and technical support services.

Maintenance is not required on-site for GoTo's Hosted VoIP installs. Phones are plug and play, and most customers opt to keep spares on hand. Phones can also be shipped from GoTo overnight. With regards to Jive Cloud (GoTo's service delivery platform), GoTo has contract relationships with our datacenter providers to deliver remote hands—if physical changes are required to the Jive Cloud infrastructure, these remote hands are typically available within fifteen minutes.

GoTo employs technical support professionals, NOC engineers, and Customer Care representatives dedicated to GoToConnect. These personnel, including organized network deployment and project management teams, are located in Lindon, UT. Both local and remote network engineers are frequently deployed to assess, install, and maintain GoTo supplied LAN/WAN network equipment at client sites. We also have an extensive network of local partnerships that provide additional skilled headcount based on project size and need. These authorized partners perform a variety of tasks, including network equipment and IP handset installation, under the direction of network and field engineering managers.

Customer Support SLAs have been provided above.

D Describe in detail ongoing maintenance fees and contract costs. Will patches and updates be included in our maintenance costs? Describe management of updates, patches, and upgrades. Are they included as part of the maintenance contract? This will include operating system updates as well as system upgrades and patches

GoTo's strategy for upgrades and new releases of Jive Cloud is based on an Agile Methodology of continuous integration and rapid iteration. All upgrades and new releases of Jive Cloud are free of charge to GoTo Hosted VoIP customers.

Every enhancement, upgrade, new feature, or software patch is introduced seamlessly into Jive Cloud once ready for release. In general, GoTo releases updates to Jive Cloud every two weeks, based on the length of developer sprints and milestones.

The integration of the new functionality begins by following a beta-testing process (with select beta customers) before the feature is released to mainline customers over a period of time. The period is often defined by the size of the enhancement, the service it affects, or the number of clients utilizing the feature. Jive Cloud is engineered in such a way that updates and

maintenance do not typically require scheduled downtime but can instead be rolled out across the platform during periods of low utilization.

### Task 5: Licensing

A. Describe the licensing structure and ease of acquiring additional licenses or removing licenses as needed.

GoToConnect seat licenses are all-inclusive - including 80+ features and access via hardphone, softphone, and mobile app. Users can use any or all of these methods to access the system without incurring additional charges. Also available are "Low Usage" licenses. These include the same 80+ features, but only allow a single line on a phone. In addition, there is a limit of 50 minutes of calling per month on low usage licenses (pooled across the customer account, i.e. 6 low usage phones = 300 minutes per month to be used by those 6 phones in any combination). The Low Usage license is intended for common area and classroom phones.

B. What is the process for procuring additional licenses?

Account activities such as moves, adds, and changes, as well as call-flow configuration, are all done via GoToConnect's secure administrator portal. If assistance is needed, GoTo does not charge hourly rates for our customer and technical support services.

C. How long does it take to add additional licenses on average?

Additional licenses can be added same day.

D. Describe your billing process and any true ups associated with it.

GoTo operates its own billing and invoicing system and provides a single, comprehensive monthly invoice to its customers. GoTo Connect customers receive invoices via email each month for the upcoming month's service and any prior months' metered services (i.e. Toll Free minutes). Electronic bills can be easily customized to meet customers' requirements for chargeback and inventory purposes.

### Task 5: Training

A. Describe training for both users and administrators. Provide specific information regarding training for the receptionist, administrative assistants, and users (remote and in the office). How long is the training? Will a trainer be sent to the site? Will a trainer be available at our office post-cut-over to assist users? How long will the trainer be available?

GoTo uses proven best practices and a proactive, high-touch approach to manage the implementation of all new GoTo Voice and UC solutions. Applied across all phases of the

implementation life cycle, the GoTo approach delivers consistent, high-quality results that minimize the pain traditionally associated with changing your telephone service provider while at the same time maximizing the impact of GoToConnect across your entire organization.

Part of this process is training. The following types of training are available, all at no extra charge to the customer with the exception of onsite training requirements.

### **Administrator Training**

GoTo follows a “train the trainer” methodology in its administrator trainings, providing participants with the ability to train other members of the organization upon completion. All trainings, with the exception of on-site classes, are provided for no additional cost. The following administrator training options are available:

- Customer On-Boarding Training. GoTo provides on-boarding administrator trainings provided by specialized GoTo customer service personnel. These one-hour trainings, done over the phone with screen-sharing, are tailored to customer needs and provide an overview of how to configure and use GoToConnect specifically for their organization. Customers may schedule additional follow-up sessions as required at any time.
- Online Video Tutorials. GoTo has created a series of training videos demonstrating the configuration and utilization of GoToConnect. The videos are located here: <https://support.goto.com/connect/user-guide/getting-started-users>
- Administrator Guide. GoTo has detailed written guides that provide instructions on how to use all features included with GoToConnect. Guides are available online here: <https://support.goto.com/connect/user-guide/getting-started-admins> and can also be provided in printed format.
- Ad Hoc Training. GoTo Customer Service Representatives are available for phone-based trainings on an ad hoc basis. Customers may either schedule a time with a Customer Service Representative to attend a personalized training or they may simply call GoTo customer service with any questions they have. Ad hoc training is provided to all customers at no additional cost.
- On-Site Administrator Training Classes. On-site classes include training on the web-based PBX controls (administrator software), Dial Plan Editor, and Call Reporting applications. Classes are administered on the customer site; additional charges may apply.

### **End-User Training**

GoTo also offers several training options for end-users, all for no additional cost. Training topics range from actual handset utilization (e.g. “how do I transfer”) to voicemail settings. The following options are available:



- Self-Guided Training. GoTo provides online video tutorials, quick-start and quick reference guides, and interactive user manuals similar to those provided for administrators for end users. These training references are available online at any time and are provided at no additional cost. GoTo Getting Started for Users can be found here: <https://support.goto.com/connect/user-guide/getting-started-admins>
- Administrator-Led Training. GoTo will provide customers with access to training support materials to enable administrators who have completed GoTo administrator training to train other members of their organization. Materials are available online at any time.
- Ad Hoc Training. GoTo Customer Service Representatives are available for phone-based user training on an ad hoc basis. Customers may either schedule a time with a Representative to attend a personalized user training or they simply call GoTo customer service with any questions they have.
- On-Site User Training Classes. On-site classes include training on end-user features like Find Me/ Follow Me settings and voicemail configuration, as well as an overview of handset operations and settings. Classes are administered on-site upon request; additional charges may apply.

B. Describe system administration and maintenance training. How long is the training? Will a trainer come to the site, or will we attend training at a different location? Is training available online? Describe all available training options for system administration and maintenance training.

See response above.



# Why GoTo Connect?

## The Swiss Army Knife of software

A single, consolidated platform that's driving a new wave of customer engagement.



Phone



Meeting



Messaging



Integrations



Audio Conferencing



Fax



Contact Center



Screen Sharing

## Your work. Your terms.

Whichever device you and your employees choose, we make it easy to jump from phone to meeting to chat on any device, all through one application, with one secure login.



## Built for IT. Designed for everyone.

We give IT professionals just one system for phone, meetings and messaging, all equipped with a unified administration portal that helps you succeed.

## 24/7 Support & 99.99% Uptime

Our solutions are so intuitive, even people who dislike technology will love ours. But in the event you need a little help, we're here.



Top-Rated Remote Desktop Software & Top-rated Hosted VoIP Provider  
Top-Rated Identity Management Solution



Best Video Conferencing Provider  
Best Webinar Software  
Best VOIP Provider / Leader in UCaaS



Challenger for Meeting Solutions  
Challenger for UCaaS Solutions  
Customers' Choice for Meeting Solutions



Gold Medals in the Company, Collaboration & Customer Service Categories  
Company of the Year



Best Customer Service & CRM Product

# Over 100+ Features

Connect an office or remote workforce with the flexible tools and unified administration.



### Auto Attendants

Leverage an endless number of auto attendants to create custom menu options and gain IVR functionality.



### HD Video Conferencing

Host professional meetings with up to 250 attendees using screenshare and meeting recording.



### Conference Bridge

Utilize an unlimited number of conference bridges across the organization.



### Voicemail to Email

Listen to voicemails directly from any inbox, on any device.



### Ring Groups/Queues

Route calls to the right people in the shortest amount of time — empowering the organization with call center functionality.



### Mobile Apps

Make and receive calls on any iOS or Android device — turn any smartphone or tablet into an office phone.



### SMS/MMS Text Messaging

Send and receive messages between teams across desktop, mobile or web with SMS/MMS available in North America.



### Virtual Fax

Send and receive faxes and view them in any email box at no additional cost.



### Music on Hold

Present a professional image with custom music and messaging for promotions or instructions.



### In-Country Calling

Call anyone in your country free up to fair-use limits.



### Global Calling

Call over 50 countries at no additional cost.



### GoTo Contact

GoTo Contact is a feature-rich, cloud-based contact center solution designed to improve customer experiences, and boost sales.



# Their Words, Not Ours

“We live in LA, there might be an earthquake tomorrow. We needed a system that could work from anywhere. That’s what GoTo brought to PLN. It’s centralized and in the cloud.”

**Geovanni Rivas**  
Head of IT, Technology and Communications, Para Los Niños

“We are saving 61% in cost every time we implement GoTo Connect at one of our locations over other hosted solutions. GoTo is a vital solution for Tenet Healthcare, which we depend on more every day.”

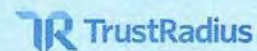
**Don Preston**  
Consultant for Tenet Healthcare

## Other Customers



## Gartner

Gartner recognized GoTo as a Challenger in the 2021 Magic Quadrant for Unified Communications and Collaboration.



TrustRadius named GoTo Connect as a 2021 top rated VoIP solution.



G2 recognizes GoTo as a leading VoIP provider based on user reviews for customer satisfaction.

Communication tools are better together.  
Visit [GoTo.com](https://www.gotocomm.com) to see all our products.



**ACKNOWLEDGEMENT  
RECEIPT OF ADDENDUM #1  
RFP 23-IT01**

Upon receipt of documents, please email, fax or mail this page to:

City of Milton  
Attn: Honor Motes, Purchasing Office  
2006 Heritage Walk  
Milton, GA 30004  
Phone: 678-242-2500  
Fax: 678-242-2499  
Email: [honor.motes@miltonga.gov](mailto:honor.motes@miltonga.gov)

I hereby acknowledge receipt of documents pertaining to the above referenced RFP.

COMPANY NAME: GoTo Technologies USA, Inc.

CONTACT PERSON: Lars Larsen

ADDRESS: 333 Summer Street

CITY: Boston STATE: MA ZIP: 02210

PHONE: 1-833-851-8340 FAX: 1-781-998-7792

EMAIL ADDRESS: lars.larsen@goto.com

Lars Larsen

March 30, 2023

Signature  
ADDENDUM #1

Date

**ADDENDUM #1  
RFP 23-IT01**

**\*\*Due date for submitting proposals has been extended to 2:00 p.m. on  
Wednesday, April 5, 2023 \*\***

**Questions and Answers**

This Addendum forms a part of the contract documents and **modifies** the original ITB documents as noted below:

1. I've reviewed the RFP documents and there are no specifics listed as to quantities of licenses/devices. Are you able to provide this type of information or can you please let me know when it will be available? ~ 200 users and 100 devices (phones/handsets)
2. Are the details about internet speeds, provider, and medium of delivery (fiber, coax, etc) available for the locations listed in the RFP that will be receiving VOIP service? ~ Internet speeds at each location are 100 mbps, with a 1 gbps direct fiber circuit between City Hall and PD. The 4 Fire stations have 250 mbps fiber internet circuits.
3. Do all of the locations currently have PoE switches to accommodate a VOIP phone system? ~ All locations run PoE Cisco switches, either Catalyst 2960X or Catalyst 9200
4. What is the total number of DIDs or individual phone numbers that will need to be supported by the replacement solution? Thanks! ~ The total number of DIDS is 130
5. What are the Total Number of users who need to be setup with Teams Phone System? ~ 130
6. Do you require a Contact Center (Call Center)? ~ No, a contact Center is not needed, but we would possible like to see how it operates and may add it.
7. How many users will be enabled for Contact Center? ~ See the answer above about the Contact Center
8. Does the proposed solution need to support analog devices? ~ Yes, it will need to support fax lines (or have an efax option) and our elevator/fire alarms at some locations.
9. What is the total count of analog devices? Are they mostly Fax and Card Readers or do they have analog phones too? Mention count of each where possible. ~ there are approximately 10 fax lines.

10. Do you need Paging? Do you have existing Paging solutions that need to be integrated? Please share number of devices that would require analogue connectors for Paging? ~ there is no need for paging at this point, but we would like the system to be capable of adding this feature in the future.
11. How many Desk phones, Conference phones, video conference phones are required? Write individual count of each type as well as model and brand preference. ~
- Desk phones= 98 total phone splits between these models-
    - o 41 IP480g Mitel/Shortel
    - o 2-IP560 Mitel/Shortel
    - o 1-IP655 Mitel/Shortel
    - o 16-IP480 Mitel/Shortel
    - o 38- IP230g Mitel/Shortel
  - Conference phones= 8
  - Video Conference phones= 0
12. Where are Customer Emails hosted? ~ Microsoft 365 GCC
13. Are you open to switching existing Telecom Provider? What is the name of existing provider? ~ Yes, AT&T
14. Do you need to Port Phone Numbers? How many Phone numbers need to be ported? ~ Yes, if we switch providers. The current range of numbers goes from 2481-2780, a total of 299.
15. Have funds been appropriated and made available for this Contract? ~ Yes. If so, for how many years of performance? ~ For the first year of service and annual after. If not, when does the City anticipate funds being appropriated and made available? ~ Funding has been appropriated and is now available. How will Offerors be so notified? ~ this Addendum serves as official notification.
16. We plan on being present for the onsite visit on the 15th. We'd like to include a member of our team remotely. Are there call-in/conferencing options for this event? ~ this is more of a "job-walk" for attendees to view our office and equipment; therefore, we will not have the capability for conferencing options. Questions will not be taken at the onsite visit, but must be submitted online via our procurement portal, BidNet Direct. Answers will be published in the formal Addendum.
17. Are you planning on purchasing new phones as part of the new solution as opposed trying to keep and utilize existing phones? Just wishing to confirm. ~ We will purchase new phones for staff that want a physical handset.

18. Do you already have existing ethernet drops and ports available at all handset locations as well as switch ports available. In other words are you expecting bid winner to provider new wiring or just use existing wiring and ports that already exist. ~ The Contractor (winning bidder) will not have to do any cabling. Cabling already exists in all City buildings.
19. Can you provide an address list of every department needing phones with number of phones at each location per the below. Name of Department How Many phones needed at location Address ~ Our current system does not allow us to separate phones by location. We are estimating there are 60-70 phones at City Hall (Public Works, Finance, Community Development, IT, Parks and Recreation, City Management, City Clerk, and Communications). 20-30 phones at the Public Safety Complex and remote fire stations.
20. Please advise any locations where a conference phone would be needed? Name of department and address. ~ (5) Conference Phones at City Hall, and (4) at the Public Safety Complex (3 for PD and 1 for Fire)
21. Please confirm if a standard 3 year term is acceptable. could not find a term length noted on the RFP requirements. ~ Per O.C.G.A. our contracts are required to terminate annually either at the end of our fiscal year or calendar year, with the option for auto-renewal. It's our intent for this contract to have a minimum of two annual renewals after the initial year.
22. What is the city currently using for Directory services? (Active directory, SailPoint, AWS, etc)? ~ Active Directory
23. Does the proposed phone system need to support this. In other words does any of the agency departments receive 911 calls and dispatch any emergency services or is this handled by county and or federal partner agencies.~ We do not currently dispatch 911 calls.
24. What is the city currently using for Directory services? (Active directory, SailPoint, AWS, etc)? ~ Active Directory
25. What type of PSTN services is the city using on the existing PBX (T1/PRI, SIP Trunks and/or Copper POTS lines)? Who is the current PSTN carrier(s) Does the county have a feel for how many Inbound and outbound PSTN Calls are managed by the city in an average Month? ~ SIP, AT&T, we do not have stats on inbound or outbound calls.
26. Would it be possible to provide information as it relates to the Type and number of phones as well as PSTN Lines/trunks listed by department/location? Milton City Department City Building Name/address PSTN Trunk Circuit Type & number of



trunks/lines (T1/PRI, SIP Copper POTS) VOIP Desktop Admin Phones required  
 Common Area VOIP Phones required VOIP Admin Softphones Required Analog  
 Devices (Fax, Elevator, etc) Required Police Fire City Manager's City Clerk  
 Community Dev Public Works Municipal Court Communications Human  
 Resources Finance Information Tech Parks & Recreation ~ Type and number of  
 phones was given in another answers already. SIP trunks are in use at all City  
 buildings, a total of 2 at City Hall and 2 at the Public Safety complex. Analog  
 lines are used for elevator alarms (2), some faxes (3-4)

27. What Voice messaging platform (Auto attendant and Voice Mail) is the county currently using? Is it locally hosted or in the cloud? How many Voice Mailboxes do you require? ~ Shortel, on premise, 100 mailboxes is a safe bet.
28. How many Auto Attendant Menu tree's do you require? Do you require multi-lingual AA Menus Do you require Unified Messaging (VM Messages sent to users email account)? ~ 4, no multi-lingual is needed as of now.
29. Does the county already have enough POE and QOS enabled data/Ethernet L3/L4 based Switch ports in place to support the VOIP phones needed for this project? Or Do we need to include Power bricks for local power. ~ Yes, there are enough PoE switches no power bricks needed.
30. Does the County require any Voice Only and/or Omni Channel (Voice, Email, Chat, Fax, etc.) based Contact Center/ACD functionality? If yes, can you please elaborate on the number of: Contact Center Groups/splits needed Contact Center Agents (Named and Concurrent) needed Contact Center Supervisor Positions- Can see real-time agent and call center stats as well as pull/schedule reports Contact Center custom announcements needed ~ No
31. Do you have any Interactive Voice Response requirements. List Any advance CC/ACD Functionality in place currently Email queuing and auto-reply Chat queueing Call recording ~ No
32. Are there any overhead paging interface requirements? If yes please describe what buildings have it and is it all call paging, zone-based paging, or both? ~ No
33. What is the current interface to the PBX, Station, or Trunk port(s)? ~ SIP Trunks
34. What type of administration and/or End-user training is preferred by the city? Is onsite training required or is Remote Webex based training, ok? ~ Either remote or in person
35. How many training sessions per day and how many days would you like to see included in our proposal? Do you prefer "Train the Trainer" type training- in

where the Contractor would train a select group of Staff who in turn would train the remaining staff. Or do you prefer Classroom based training for all staff members? ~Train the trainer is fine or classroom training either in person or remote.

36. CONTRACTOR AFFIDAVIT AND AGREEMENT requires signature and notary, is electronic signature and notary acceptable? ~ Yes
37. For the required Cover Page, is electronic signature acceptable? ~ Yes
38. Technical Proposal can be no more than twenty (20) single sided pages. Cover page(s), table of contents, tabs, and required forms do not count toward the page limit. Do separately labeled sections such as executive summary, corporate overview, case studies, and summary of solution features count toward the 20-page Technical Proposal limit? ~ The summary of solution features would be considered part of the technical proposal; however, the other pages would not count towards that limitation.
39. And how many telephones or user are there per location? ~ This information was provided in a previous questions
40. Are there any analog lines? How many analogs at each location? ~ 8, 4 at City Hall and 4 at the Public Safety Complex
41. Does this IP network currently allow for QoS (Quality of Service) at all locations? ~ Yes
42. Does the IP network reach all locations? ~ Yes
43. Do all locations have POE (Power over Ethernet) capabilities at all locations? ~ Yes
44. Is local trunking provided, SIP trunks or PRI already in place? Who is the service provider? ~ SIP trunks w/t AT&T
45. For eFax service: is there an estimate of total traffic required (inbound/outbound pages/month?) ~ No
46. For eFax service: how many DID's does the City currently have for inbound fax? ~ Approximately 10

- 47. Given that questions will not be answered until 3/22, can you please extend the RFP response time for another three (3) weeks? ~ The due date for submitting proposals has been extended to 2:00 p.m. on Wednesday, April 5, 2023.
- 48. What licenses do you have with Microsoft? You mention having the G series licenses but are they G1, G3, G5? If G1 or G3 do you have the Phone System add-on license? ~ G1 and G3 without the Teams Phone licensing
- 49. Is this agreement expected to be Fed Ramp Moderate (on-shore) compliant? ~ No
- 50. What ISP is being used to support the City of Milton? Will this RFP include replacing the existing ISP? Is so, what requirements are needed (i.e. speed/router type)? ~ AT&T, no replacing the ISP isn't a requirement, but may be considered.
- 51. Section 1, page 10, 4b. Work Plan - It states: "provide an anticipated project schedule with 12/1/22 as an assumed Notice to Proceed." Please provide the corrected date. ~ It's anticipated the Notice to Proceed would be issued immediately after the contract award which is proposed to be by mid-May 2023.
- 52. How many users are at the Fire Hall and Community Center? Are those users included in the total of 97? ~ This information was provided in a previous questions
- 53. What is the total number of conference rooms? What is the capacity of each? ~ 8, capacity varies from 15-20
- 54. When do you anticipate changing the current Microsoft license to M365G? ~April 2023
- 55. What is the current faxing solution? Is it email faxing or is it machine based, traditional wired lines? ~ Analog, through the VOIP system and some dedicated lines
- 56. Is 97 handsets the total amount for the whole city? Do you require additional ones preconfigured for possible new employees? How many total handsets (including extra) are required? How many total users? How many phone numbers are in your current inventory (local, toll-free)? ~ 97 is total amount, we'll purchase extra phones as needed.

57. Section 6 (Evaluation Criteria, first bullet): Please confirm this RFP is only for the City of Milton, the sentence in bullet 1 indicates "Cities". ~ Yes, just the City of Milton.

**ORDER FORM AGREEMENT BETWEEN THE CITY OF MILTON AND FULTON  
COMMUNICATIONS, INC.**

**ADDENDUM NO. 1**

This Addendum supplements that certain Order Form Agreement (the "Agreement") between **FULTON COMMUNICATIONS, INC., DBA VERTICAL COMMUNICATIONS, INC.**, a Georgia corporation with principal office located at 1000 Holcomb Woods Parkway, Building 400, Suite 415, Roswell, Georgia 30076 ("Service Provider") and the **CITY OF MILTON**, a political subdivision of the State of Georgia ("Customer"), of even date herewith, to add the following provisions thereto:

**1. Conflicting Provisions.**

This Addendum is attached to and is a part of the Agreement described above. The provisions of this Addendum control over any contrary provisions found in the Agreement. No provision of the Agreement shall operate to override the provisions of this Addendum.

**2. Statutory Auto-Termination and Renewal.**

The term of this Agreement shall commence as of the date both Parties have last signed both the Agreement and this Addendum ("Effective Date"), and the Agreement shall terminate two (2) years following the Effective Date ("Term") (provided that certain obligations will survive termination/expiration of this Agreement). If the Term of this Agreement is longer than one year, the Parties agree that this Agreement, as required by O.C.G.A. § 36-60-13, shall terminate absolutely and without further obligation on the part of the Customer on December 31<sup>st</sup> of each year of the Term, and further, that this Agreement shall automatically renew on January 1st of each subsequent year absent the Customer's provision of written notice of non-renewal to Service Provider at least ninety (90) days prior to the end of the then year. Title to any supplies, materials, equipment, or other personal property shall remain in Service Provider until fully paid for by the Customer.

**3. Sovereign Immunity; Indemnification.**

Nothing contained in the Agreement shall be construed to be a waiver of Customer's sovereign immunity or any individual's qualified, good faith or official immunities. Any provision of the Agreement requiring the Customer to indemnify the Service Provider is only valid to the extent allowed by Georgia law. The parties hereto agree and acknowledge that the Customer is under no obligation to procure additional insurance related to the Agreement, including this Addendum.

**4. Termination**

Customer may terminate this Agreement for convenience at any time upon providing written notice thereof at least thirty (30) days in advance of the termination date.

## **5. Nondiscrimination.**

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, Service Provider agrees that, during performance of this Agreement, Service Provider, for itself, its assignees and successors in interest, will not discriminate against any employee or applicant for employment, any subcontractor, or any supplier because of race, color, creed, national origin, gender, age or disability. In addition, Service Provider agrees to comply with all applicable implementing regulations and shall include the provisions of this Section in every subcontract for services contemplated under this Agreement.

## **6. Confidentiality.**

Service Provider acknowledges that Customer's disclosure of documentation is governed by Georgia's Open Records Act, and Service Provider further acknowledges that if Service Provider submits records containing trade secret information, and if Service Provider wishes to keep such records confidential, Service Provider must submit and attach to such records an affidavit affirmatively declaring that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10, and the Parties shall follow the requirements of O.C.G.A. § 50-18-72(a)(34) related thereto.

## **7. Authority to Contract.**

The individual executing the Agreement on behalf of each party covenants and declares that he/she has obtained all necessary approvals of the necessary board of directors, stockholders, board of commissioners, general partners, limited partners or similar authorities to simultaneously execute and bind the party to the terms of the Agreement.

## **8. Ethics Code; Conflict of Interest.**

Service Provider agrees that it shall not engage in any activity or conduct that would result in a violation of the City of Milton Code of Ethics or any other similar law or regulation. Service Provider certifies that to the best of its knowledge no circumstances exist which will cause a conflict of interest in performing the services required by this Agreement. Service Provider and the Customer acknowledge that it is prohibited for any person to offer, give, or agree to give any City employee or official, or for any City employee or official to solicit, demand, accept, or agree to accept from another person, a gratuity of more than nominal value or rebate or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor. The Service Provider and the Customer further acknowledge that it is prohibited for any payment, gratuity, or offer of employment to be made by or on behalf of a sub-consultant under a contract to the prime

Service Provider or higher tier sub-consultant, or any person associated therewith, as an inducement for the award of a subcontract or order.

### **9. Governing Law.**

This Agreement is governed by the laws of the State of Georgia to the extent that such laws apply to the Customer as a political subdivision of the State of Georgia and as a party to this Contract.

### **10. Employment of Unauthorized Aliens Prohibited – E-Verify Affidavit.**

Pursuant to O.C.G.A. § 13-10-91, Customer shall not enter into a contract for the physical performance of services unless Service Provider shall provide evidence on the forms attached hereto as Addendum Exhibits “A” and “B” (affidavits regarding compliance with the E-Verify program to be sworn under oath under criminal penalty of false swearing pursuant to O.C.G.A. § 16-10-71), that it and its subcontractors have registered with, are authorized to use and use the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91, and that they will continue to use the federal work authorization program throughout the contract period. Service Provider hereby verifies that it has, prior to executing this Agreement, executed a notarized affidavit, the form of which is provided in Addendum Exhibit “A”, and submitted such affidavit to Customer. Further, Service Provider hereby agrees to comply with the requirements of the federal Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, O.C.G.A. § 13-10-91 and Georgia Department of Labor Rule 300-10-1-.02.

In the event Service Provider employs or contracts with any subcontractor(s) to perform services for Customer, Service Provider agrees to secure from such subcontractor(s) attestation of the subcontractor’s compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 by the subcontractor’s execution of the subcontractor affidavit, the form of which is attached hereto as Addendum Exhibit “B”, which subcontractor affidavit shall become part of the contractor/subcontractor agreement. Service Provider agrees that the employee-number category designated below is applicable to it:

- 500 or more employees
- 100 or more employees
- Fewer than 100 employees

Service Provider hereby agrees that, in the event Service Provider employs or contracts with any subcontractor(s) in connection with the Agreement and where the subcontractor is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, Service Provider will secure from the subcontractor(s) such subcontractor(s)’ indication of the above employee-number category that is applicable to the subcontractor. If Service Provider does not employ or contract with any subcontractor(s) to perform services for Customer, the provisions of this section related to subcontractors shall not apply. The above requirements shall be in addition to the requirements of

state and federal law and shall be construed to be in conformity with those laws.

[remainder of this page intentionally left blank]

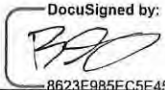
[signature page follows]



IN WITNESS WHEREOF Customer and Service Provider have executed this Agreement, effective as of the Effective Date first above written.

**SERVICE PROVIDER:**

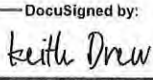
**FULTON COMMUNICATIONS, INC.**

By:   
Ben Treadway, President

[CORPORATE SEAL]



**ATTEST:**

By:   
Print Name: Keith Drew  
Title: Sr. Communications Consultant

**CITY OF MILTON, GEORGIA**

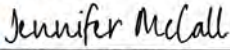
By: Peyton Jamison, Mayor

[CITY SEAL]

**Attest:**

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: City Clerk

**Approved as to form:**

 8/10/2023  
City Attorney Date

**EXHIBIT A**

**STATE OF GEORGIA  
COUNTY OF FULTON**

**CONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services on behalf of the **CITY OF MILTON** has registered with, is authorized to use, and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period, and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b).

Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

416577  
Federal Work Authorization User Identification Number

5/19/2011  
Date of Authorization


**Vertical Communications, Inc.**  
Name of Contractor

**Vertical Communications Installation**  
Name of Project

**City of Milton**  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on July 27th, 2023 in Roswell, Georgia.

DocuSigned by:  
  
Signature of Authorized Officer or Agent

Ben Treadway President

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME  
ON THIS THE 27 DAY OF JULY,  
2023

  
Notary Public

[NOTARY SEAL]

My Commission Expires:  
\_\_\_\_\_

Donna M Demarcus  
NOTARY PUBLIC  
Gwinnett County, GEORGIA  
My Comm. Expires  
12/1/2024

**EXHIBIT B**

**STATE OF GEORGIA  
COUNTY OF FULTON**

**SUBCONTRACTOR AFFIDAVIT**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with **Fulton Communications, Inc.** on behalf of the CITY OF MILTON has registered with, is authorized to use, and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period, and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five (5) business days of receipt. If the undersigned subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned subcontractor must forward, within five (5) business days of receipt, a copy of the notice to the contractor.

Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User  
Identification Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Subcontractor

**Vertical Communications Installation**  
Name of Project

**CITY OF MILTON**  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, 20\_\_ in  
\_\_\_\_\_(city), \_\_\_\_\_(state).

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name and Title of Authorized  
Officer or Agent

SUBSCRIBED AND SWORN BEFORE  
ME  
ON THIS THE \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

[NOTARY SEAL]

My Commission Expires:  
\_\_\_\_\_

**STAFF MEMO:**  
**FINANCIAL**

**TO:** Honorable Mayor and City Council Members  
**FROM:** Ashley Smith, IT Director  
**DATE:** Submitted on August 10, 2023 for the August 21, 2023 Regular City Council Meeting

DocuSigned by:  
Ashley Smith  
505853043B5C476...

**AGENDA ITEM:** Approval of MSA between GoTo Communications, Inc. and the City of Milton for hosted VOIP Phone Services

**PROJECT DESCRIPTION**

This is an MSA and Service Contract for hosted Voice Over IP Phone Services for the City. It conducted a competitive bid process for a hosted VOIP solution and services and selected GoTo Communications and Vertical Communications as the vendor of choice. Vertical Communications is the integrator for the project providing installation services and on-going support. GoTo Communications is the software vendor and hosting/service provider. The project will encompass the full deployment of the GoTo VOIP platform, hardware configuration (handsets and conference phones), Microsoft Teams integration setup, and end user/administrator training. This system will be replacing the current on-premises Shortel system that is end-of-life by the vendor.

**PROCUREMENT SUMMARY**

**Purchasing method used:** RFP  
**Account Number:** 100-1535-523850106  
**Recurring Monthly Total:** \$2,877.45  
**Annual Total:** \$34,529.40

**REVIEW & APPROVALS**

**Financial Review:** Karen Ellis, Finance Director – August 10, 2023  
**Legal Review:** Jennifer McCall, Jarrard & Davis, LLP – July 26, 2023  
**Concurrent Review:** Steven Krokoff, City Manager  
**Attachments:** Master Services Agreement with Addendum

DocuSigned by:  
Karen Ellis  
45755D597160487...

DocuSigned by:  
Steven Krokoff  
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SERVICE • TEAMWORK • OWNERSHIP • LEADERSHIP • RURAL HERITAGE

2006 Heritage Walk, Milton, GA 30004 | 678.242.2500 | facebook.com/thecityofmiltonga | info@miltonga.gov | www.miltonga.gov



[Back to Legal](#)

## TERMS OF SERVICE

This is a legal agreement between the person or organization (“**Customer**” or “**you**”) agreeing to these Terms of Service (“**Terms**”) and the applicable contracting entities at <https://www.goto.com/company/legal/contracting-entities> (“**GoTo**,” “**us**,” or “**we**”). By accepting these Terms, signing an Order, or using the Services, you represent that you are of legal age and have the authority to bind the Customer to: (i) the Order; (ii) these Terms; (iii) the “**Service Descriptions**” available at <https://www.goto.com/company/legal/service-descriptions>; (iv) the country-specific “**Regional Supplement**” available at <https://www.goto.com/company/legal/regional-supplement>, if any; and (v) the Professional Services Terms and Conditions available at <https://www.goto.com/company/legal/professional-services-terms>, in each case, as applicable (collectively the “**Agreement**”).

### 1. **ACCESS AND USE OF THE SERVICES.**

1.1. **Right to Use Services.** You agree to use the Services in accordance with the use levels by which we measure, price, and offer our Services as posted on our websites, your Order, or the Service Descriptions (“**Use Levels**”). You may use our Services only as permitted in these Terms, and you acknowledge our Privacy Policy at <https://www.goto.com/company/legal/privacy>, which is incorporated by reference. We grant you a limited right to use our Services only for business and professional purposes. Technical support for the Services is described in the Service Descriptions. If your affiliates use our Services, you warrant that you have the authority to bind those affiliates and you will be liable if your affiliates do not comply with the Agreement. “**Service(s)**” means our software-as-a-service offerings and our audio services (including any related hardware, which are offered by GoTo Technologies Ireland Unlimited Company, GoTo Audio, LLC, Grasshopper Group LLC, or GoTo Communications, Inc., or their subsidiaries, our telecommunications providers responsible for the rates and terms relating to the respective audio services). The Service Descriptions are incorporated into these Terms. You understand that your personal data may be processed in connection with your use of our Services, software, and websites which are provided via equipment and resources located in the United States and other locations throughout the world.

**1.2. Limitations on Use.** By using our Services, you agree on behalf of yourself, your users and your attendees, not to (i) modify, prepare derivative works of, or reverse engineer, our Services; (ii) knowingly or negligently use our Services in a way that abuses or disrupts our networks, user accounts, or the Services; (iii) transmit through the Services any harassing, indecent, obscene, or unlawful material; (iv) market, or resell the Services to any third party; (v) use the Services in violation of applicable laws, or regulations; (vi) use the Services to send unauthorized advertising, or spam; (vii) harvest, collect, or gather user data without their consent; (viii) transmit through the Services any material that may infringe the intellectual property, privacy, or other rights of third parties; or (ix) use the Services to commit fraud or impersonate any person or entity.

**1.3. Changes to Services.** We reserve the right to enhance, upgrade, improve, or modify features of our Services as we deem appropriate and in our discretion. We will not materially reduce the core functionality (as set forth in the [Service Descriptions](#)) or discontinue any Services unless we provide you with prior written notice. We may offer additional functionality to our standard Services or premium feature improvements for an additional cost.

**1.4. Proprietary Rights and GoTo Marks.** You acknowledge that we or our licensors retain all proprietary right, title and interest in the Services, our name, logo or other marks (together, the “**GoTo Marks**”), and any related intellectual property rights, including, without limitation, all modifications, enhancements, derivative works, and upgrades thereto. You agree that you will not use or register any trademark, service mark, business name, domain name or social media account name or handle which incorporates in whole or in part the GoTo Marks or is similar to any of these. You agree to comply with our Branding Guidelines, available at <https://www.goto.com/company/legal/trademark>, which are incorporated into this Agreement by reference.

Give Feedback

## **2. ORDERS, FEES AND PAYMENT.**

**2.1. Orders.** You may order Services using our then-current ordering processes (“**Order**”). All Orders are effective on the earlier of (i) the date you submit your Order, or (ii) the date on the signature block of the Order (“**Effective Date**”). Acceptance of your Order may be subject to our verification and credit approval process. Each Order shall be treated as a separate and independent Order. A Purchase Order is required for non-credit card transactions over 25,000 USD, or equivalent, unless Customer does not require a Purchase Order as part of its purchasing process.

**2.1.1. COVID-19 Emergency Kit Services.** Any subscriptions to Services labeled as “COVID-19 Emergency Kit” are for use across your organization during the contract term listed in the Order for such subscriptions and will

automatically terminate thereafter or, if you have active subscriptions for the Services being purchased, on the earlier of the contract term set forth in the Order or the expiration of your underlying paid subscription term. If you have active subscriptions for the Services being purchased, the COVID-19 Emergency Kit subscriptions are subject to your existing contract with GoTo and do not change the terms of any previously purchased services. You may choose to purchase any of the COVID-19 Emergency Kit subscriptions under a separate order, but you are under no obligation to do so.

**2.2. Fees and Payment.** You agree to pay all applicable, undisputed fees for the Services on the terms set forth in this Agreement or your invoice. Except as set forth in Section 3.3 below or in the Service Descriptions, any and all payments you make to us for access to the Services are final and non-refundable. You are responsible for all fees and charges you incur to your other service providers (e.g. your broadband and internet provider) in connection with your use of the Services. You are responsible for providing accurate and current billing, contact and payment information to us or any reseller. You agree that we may charge your payment card or bill you for all amounts due for your use of the Services, and we may take steps to update your payment card information (where permitted) to ensure that payment can be processed. You agree that your credit card information and related personal data may be provided to third parties for payment processing and fraud prevention purposes. We may, where permitted by applicable law, suspend or terminate your Services if at any time we determine that your payment information is inaccurate or not current, and you are responsible for fees and overdraft charges that we may incur when we charge your card for payment. We will not agree to submit invoices via any customer procure-to-pay online portal or Electronic Data Interchange (EDI) portals. We reserve the right to update the price for Services at any time after your Initial Term, and price changes will be effective as of your next billing cycle. In accordance with applicable law, we will notify you in a timely manner of any price changes by publishing on our website, emailing, quoting, or invoicing you.

**2.3. Sales, Promotional Offers, Coupons and Pricing.** Sales, promotions and other special discounted pricing offers are temporary and, upon the renewal of your subscription, any such discounted pricing offers may expire. We reserve the right to discontinue or modify any coupons, credits, sales, and special promotional offers in our sole discretion.

**2.4. Disputes; Delinquent Accounts.** You must notify us of any fee dispute within 15 days of the invoice date, and once resolved, you agree to pay those fees within 15 days. We may, on notice to you, suspend or terminate your Services if you do not pay undisputed fees, and you agree to reimburse us for all reasonable costs and expenses incurred in collecting undisputed delinquent amounts.

2.5. **Taxes and Withholding.** You are responsible for all applicable sales, services, value-added, goods and services, withholding, tariffs, Universal Services Fund (USF) fees or any other similar fees as may be applicable in the location in which the Services are being provided (if applicable to the Audio Services only) and similar taxes or fees (collectively, “**Taxes and Fees**”) imposed by any government entity or collecting agency based on the Services, except those Taxes and Fees based on our net income, or Taxes and Fees for which you have provided an exemption certificate. In all cases, you will pay the amounts due under this Agreement to us in full without any right of set-off or deduction.

### 3. **TERM AND TERMINATION.**

3.1. **Term.** The initial term commitment for your purchase of Services will be as specified on an Order (“**Initial Term**”) and begins on the Effective Date. After the Initial Term, the Services will, unless otherwise specified in the [Service Description](#) for a particular Service, automatically renew for additional 12-month periods (“**Renewal Terms**”), unless either party provides notice of non-renewal at least 30 days before the current term expires. You may provide notice of non-renewal for each Service you do not wish to renew <https://support.goto.com/>. We may agree to align the invoicing under multiple Orders, but this will not reduce the term of any Order. Terminating specific Services does not affect the term of any other Services still in effect. If we permit you to reinstate Services at any time after termination, you agree that you will be bound by the then-current Terms and the renewal date that was in effect as of the effective termination date.

3.2. **Termination for Cause.** Either party may terminate the Agreement (i) if the other party breaches its material obligations and fails to cure within 30 days of receipt of written notice, or (ii) where permitted by applicable law, if the other party becomes insolvent or bankrupt, liquidated or is dissolved, or ceases substantially all of its business, and we may suspend access or terminate immediately if you breach [Section 1.2, 4.1, 4.3, or 5](#).

3.3. **Effect of Termination.** If the Agreement or any Services are terminated, your account may be converted to a “free” or “basic” version of the Service, if available, at our discretion. Otherwise, you will immediately discontinue all use of the terminated Services, except that upon request, we will provide you with limited access to the Services for a period not to exceed 30 days, solely to enable you to retrieve your Content from the Services. We have no obligation to maintain your Content after that period. To the extent permitted by applicable law, neither party will be liable for any damages resulting from termination of the Agreement, and termination will not affect any claim arising prior to the effective termination date. If we discontinue Services or materially reduce the core functionality in accordance with Section 1.3 above, the related Order will be terminated, and we will provide you with a pro rata refund of any prepaid,



unused fees. You agree to pay for any use of the Services past the date of expiration or termination which have not been converted to a free version of the Service.

3.4. **Survival.** The provisions of Sections 2 (Orders, Fees and Payment), 3.3 (Effect of Termination), 4 (Your Content and Accounts), 7 (Indemnification), 8 (Limitation on Liability), 9.5 (No Class Actions), 9.10 (Notices), and 9.14 (Contracting Party, Choice of Law and Location for Resolving Disputes) survive any termination of the Agreement.

#### 4. **YOUR CONTENT AND ACCOUNTS.**

4.1. **Your Content.** You retain all rights to your Content (defined below) and we do not own or license your Content. We may use, modify, reproduce, and distribute your Content in order to provide and operate the Services. You warrant that (i) you have the right to upload or otherwise share Content with us, and (ii) your uploading or processing of your Content in the context of our Services does not infringe on any rights of any third party. Each party agrees to apply reasonable technical, organizational, and administrative security measures to keep Content protected in accordance with industry standards. We will not view, access or process any of your Content, except: (x) as authorized or instructed by you or your users in this Agreement or in any other agreement between the parties, or (y) as required to comply with our policies, applicable law, or governmental request. “**Content**” means any files, documents, recordings, chat logs, transcripts, and similar data that we maintain on your or your users’ behalf, as well as any other information you or your users may upload to your Service account in connection with the Services.

4.2. **Your Privacy and Security.** We maintain a global privacy and security program designed to protect your Content and any associated personal data we may collect and/or process on your behalf. You can visit our Trust & Privacy Center (<https://www.goto.com/company/trust>) to review applicable data processing locations and Sub-Processor Disclosures, as well as Service-specific information about our technical and organizational security measures (located in the Technical and Organizational Measures or "TOMs" documentation). When providing our Services, we act as a data processor, service provider, or the equivalent construct. To review and execute our Data Processing Addendum ("DPA"), please visit <https://www.goto.com/company/legal>.

4.3. **Your Accounts.** You are solely responsible for (i) all use of the Services by you and your users, (ii) maintaining lawful basis for the collection, use, processing and transfer of Content, and (iii) providing notices or obtaining consent as legally required in connection with the Services. We do not send emails asking for your usernames or passwords, and to keep your accounts secure, you should keep all

usernames and passwords confidential. We are not liable for any loss that may incur if a third party uses your password or account. We may suspend the Services or terminate the Agreement if you, your users, or attendees are using the Services in a manner that is likely to cause harm to us or if we have reasonable grounds for suspecting any illegal, fraudulent, or abusive activity on your part. You agree to notify us immediately and terminate any unauthorized access to the Services or other security breach.

**5. COMPLIANCE WITH LAWS.** In connection with the performance, access and use of the Services under the Agreement, each party agrees to comply with all applicable laws, rules and regulations including, but not limited to export, privacy, and data protection laws and regulations. Each party represents that it is not named on any U.S. government denied-party list. Further, Customer shall not permit its users to access or use any Service or Content in a U.S. embargoed country or in violation of any U.S. export law or regulation. If necessary and in accordance with applicable law, we will cooperate with local, state, federal and international government authorities with respect to the Services. Notwithstanding any other provision in these Terms, we may immediately terminate the Agreement for noncompliance with applicable laws.

**6. WARRANTIES.** WE WARRANT THAT THE SERVICES WILL CONFORM TO THE SERVICE DESCRIPTIONS UNDER NORMAL USE. WE DO NOT REPRESENT OR WARRANT THAT (i) THE USE OF OUR SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR FREE, OR OPERATE IN COMBINATION WITH ANY SPECIFIC HARDWARE, SOFTWARE, SYSTEM OR DATA, (ii) OUR SERVICES WILL MEET YOUR REQUIREMENTS, OR (iii) ALL ERRORS OR DEFECTS WILL BE CORRECTED. USE OF THE SERVICES IS AT YOUR SOLE RISK. OUR ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY UNDER THIS WARRANTY WILL BE, AT OUR SOLE OPTION AND SUBJECT TO APPLICABLE LAW, TO PROVIDE CONFORMING SERVICES, OR TO TERMINATE THE NON-CONFORMING SERVICES OR THE APPLICABLE ORDER, AND PROVIDE A PRO-RATED REFUND OF ANY PREPAID FEES FROM THE DATE YOU NOTIFY US OF THE NON-CONFORMANCE THROUGH THE END OF THE REMAINING TERM. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES AND CONDITIONS, THEREFORE SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO CUSTOMERS LOCATED IN THOSE JURISDICTIONS.

**7. INDEMNIFICATION.** You will indemnify and defend us against any third party claim resulting from a breach of [Section 1.2](#), [4.1](#) or [4.3](#), or alleging that any of your Content infringes upon any patent or copyright, or violates a trade secret of any party, and you agree to pay reasonable attorney's fees, court costs, damages finally awarded, or

reasonable settlement costs with respect to any such claim. We will promptly notify you of any claim and cooperate with you in defending the claim. You will reimburse us for reasonable expenses incurred in providing any cooperation or assistance. You will have full control and authority over the defense and settlement of any claim, except that: (i) any settlement requiring us to admit liability requires prior written consent, not to be unreasonably withheld or delayed, and (ii) we may join in the defense with our own counsel at our own expense.

## 8. **LIMITATION ON LIABILITY.**

8.1. **LIMITATION ON INDIRECT LIABILITY.** NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY OR TO ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL LOSS, EXEMPLARY OR OTHER SUCH DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES ARISING OUT OF OR RELATING TO: (i) LOSS OF DATA, (ii) LOSS OF INCOME, (iii) LOSS OF OPPORTUNITY, (iv) LOST PROFITS, OR (v) COSTS OF RECOVERY, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR VIOLATION OF STATUTE, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY.

8.2. **LIMITATION ON AMOUNT OF LIABILITY.** EXCEPT FOR YOUR BREACH OF SECTIONS 1.2, 4.1, OR 4.3 AND YOUR INDEMNIFICATION OBLIGATIONS, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL CUMULATIVE LIABILITY OF EITHER PARTY AND THEIR RESPECTIVE LICENSORS AND SUPPLIERS ARISING OUT OF THIS AGREEMENT IS LIMITED TO THE SUM OF THE AMOUNTS PAID FOR THE APPLICABLE SERVICE DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE INCIDENT GIVING RISE TO THE LIABILITY. THE FOREGOING DOES NOT LIMIT YOUR OBLIGATIONS TO PAY ANY UNDISPUTED FEES AND OTHER AMOUNTS DUE UNDER ANY ORDER.

## 9. **ADDITIONAL TERMS.**

9.1. **Free Services and Trials.** Your right to access and use any free Services is not guaranteed for any period of time and we reserve the right, in our sole discretion, to limit or terminate your use of any free versions of any Services by any individual or entity. If you are using the Services on a trial or promotional basis (“**Trial Period**”), your Trial Period and access to the Services will terminate (i) at the end of the Trial Period stated in your Order, or (ii) if no date is specified, 30 days after your initial access to the Services, (iii) or upon your conversion to a subscription. During the Trial Period, to the extent permitted by law, we provide

the Services “AS IS” and without warranty or indemnity, and all other terms otherwise apply. We may modify or discontinue any trials or promotions at any time without notice.

## 9.2. **Third Party Services.**

9.2.1. Services may provide the capability for you to link to or integrate with third party sites or applications separately accessed by you and not purchased from us. We are not responsible for and do not endorse such services. You have sole discretion whether to purchase or connect to any third party services and your use is governed solely by the terms for those services.

9.2.2. Any third party services we have sold to you are subject to this Agreement, including any additional terms specific to those services that may be set forth in the [Service Descriptions](#). Unless otherwise specified in the Service Descriptions, we and our contractors, suppliers, and licensors disclaim all warranties, express or implied, and all liability for any third party services we have sold to you.

9.3. **Beta Services.** We may offer you access to beta services that are being provided prior to general release, but we do not make any guarantees that these services will be made generally available (“**Beta Services**”). You understand and agree that the Beta Services may contain bugs, errors, and other defects, and use of the Beta Services is at your sole risk. You acknowledge that your use of Beta Services is on a voluntary and optional basis, and we have no obligation to provide technical support and may discontinue provision of Beta Services at any time in our sole discretion and without prior notice to you. These Beta Services are offered “AS-IS”, and to the extent permitted by applicable law, we disclaim any liability, warranties, indemnities, and conditions, whether express, implied, statutory, or otherwise. If you are using Beta Services, you agree to receive related correspondence and updates from us and acknowledge that opting out may result in cancellation of your access to the Beta Services. If you provide feedback (“**Feedback**”) about the Beta Service, you agree that we own any Feedback that you share with us. For the Beta Services only, these Terms supersede any conflicting terms and conditions in the Agreement, but only to the extent necessary to resolve conflict.

9.4. **Copyright.** If you believe that our Services have been used in a way that constitutes copyright infringement, you should follow the process outlined here: <https://www.goto.com/company/legal/dmca>.

9.5. **No Class Actions.** You may only resolve disputes with us on an individual basis and you agree not to bring or participate in any class, consolidated, or representative action against us or any of our employees or affiliates.

9.6. **Security Emergencies.** If we reasonably determine that the security of Services or infrastructure may be compromised due to hacking attempts, denial of service attacks, or other malicious activities, we may temporarily suspend the Services and we will take action to promptly resolve any security issues. We will notify you of any suspension or other action taken for security reasons.

9.7. **High-Risk Use.** You understand that the Services are not designed or intended for use during high-risk activities which include, but are not limited to use in hazardous environments requiring fail-safe controls, weapons systems, aircraft navigation, control, or communications systems, and/or life support systems.

9.8. **Recording.** Certain Services provide functionality that allows you to record audio and data shared during sessions. You are solely responsible for complying with all applicable laws in the relevant jurisdictions while using recording functionality. We disclaim all liability for your recording of audio or shared data, and you agree to hold us harmless from damages or liabilities related to the recording of any audio or data.

9.9. **Assignment.** Neither party may assign its rights or delegate its duties under the Agreement either in whole or in part without the other party's prior written consent, which shall not be unreasonably withheld, except that either party may assign the Agreement to an affiliated entity, or as part of a corporate reorganization, consolidation, merger, acquisition, or sale of all or substantially all of its business or assets to which this Agreement relates. Any attempted assignment without consent will be void. The Agreement will bind and inure to the benefit of each party's successors or assigns.

9.10. **Notices.** Notices must be sent by personal delivery, overnight courier or registered or certified mail. We may also provide notice to the email last designated on your account, electronically via postings on our website, in-product notices, or our self-service portal or administrative center. Unless specified elsewhere in this Agreement, notices should be sent to us at the address for your applicable contracting entity, with a copy to our Legal Department, 333 Summer Street, Boston, Massachusetts 02210 USA, and we will send notices to the address last designated on your account. Notice is given (a) upon personal delivery; (b) for overnight courier, on the second business day after notice is sent, (c) for registered or certified mail, on the fifth business day after notice is sent, (d) for email, when the email is sent, or (e) if posted electronically, upon posting.

9.11. **Regional Terms.** If you are located in regions outside the United States and are purchasing our GoToConnect Services, additional terms specific to your region (as set forth in our Regional Supplement at

<https://www.goto.com/company/legal/regional-supplement>) shall apply to your use of the Services and shall be considered part of these Terms. Section 6, Item G.

9.12. **Entire Agreement; Order of Precedence.** The Agreement, including any applicable DPA, sets forth the entire agreement between you and GoTo relating to the Services and supersedes all prior and contemporaneous oral and written agreements, except as otherwise permitted. If there is a conflict between an executed Order, a country-specific Regional Supplement, these Terms, the DPA, and the Service Descriptions, in each case, as applicable, the conflict will be resolved in that order, but only for the specific Services described in the applicable Order. Nothing contained in any document submitted by you will add to or otherwise modify the Agreement. We may update the Terms from time to time, which will be identified by the last updated date, and may be reviewed at <https://www.goto.com/company/legal/terms-and-conditions>. Your continued access to and use of the Services constitutes your acceptance of the then-current Terms.

9.13. **General Terms.** If any term of this Agreement is not enforceable, this will not affect any other terms. Both parties are independent contractors and nothing in this Agreement creates a partnership, agency, fiduciary or employment relationship between the parties. No person or entity not a party to the Agreement will be a third party beneficiary. Our authorized distributors do not have the right to modify the Agreement or to make commitments binding on us. Failure to enforce any right under the Agreement will not waive that right. Unless otherwise specified, remedies are cumulative. The Agreement may be agreed to online or executed by electronic signature and in one or more counterparts. No party will be responsible for any delay or failure to perform under the Agreement due to force majeure events (e.g. natural disasters; terrorist activities, activities of third party service providers, labor disputes; and acts of government) and acts beyond a party's reasonable control, but only for so long as those conditions persist.

9.14. **Contracting Party, Choice of Law and Location for Resolving Disputes.** The GoTo contracting entity, contact information, and governing law for your use of the Services will depend on where you are and the specific Services you have ordered, as set forth here: <https://www.goto.com/company/legal/contracting-entities>.

COMPANY

Section 6, Item G.

RESOURCES

PRODUCTS

FOLLOW & SHARE GOTO:

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## Service Descriptions for GoTo Services

These Service Descriptions, together with the applicable Order, the Terms of Service available at: <https://www.goto.com/company/legal/terms-and-conditions>, and, if applicable, the Regional Supplement available at <https://www.goto.com/company/legal/regional-supplement>, form the “Agreement” applicable to the Services to which you have subscribed. Unless prohibited by applicable law, we reserve the right to update these Service Descriptions from time to time without notice to you. Except as otherwise set forth in the Terms of Service or the Regional Supplement, your continued access to and use of the Services will indicate your acceptance of the then-current Terms of Service.

GoTo Services are provided by the appropriate GoTo Contracting Entities as set forth here: <https://www.goto.com/company/legal/contracting-entities>.

<b>Collaboration Communications</b>	<b>Customer Engagement Support</b>	<b>Identity &amp; Access Management</b>
<a href="#">GoTo Meeting join.me</a>	<a href="#">GoTo Assist</a>	<a href="#">LastPass Business</a>
<a href="#">Messenger</a>	<a href="#">GoTo Assist Corporate</a>	<a href="#">LastPass SSO</a>
<a href="#">GoTo Room</a>	<a href="#">GoTo Assist Remote Support</a>	<a href="#">LastPass MFA</a>
<a href="#">GoTo Webinar</a>	<a href="#">GoTo Assist Service Desk</a>	<a href="#">LastPass Teams</a>
<a href="#">GoTo Stage</a>	<a href="#">Rescue</a>	<a href="#">LastPass Premium and</a>
<a href="#">GoTo Webcast</a>	<a href="#">Rescue Live Lens</a>	<a href="#">LastPass Families</a>
<a href="#">Event Services</a>	<a href="#">Rescue Live Guide</a>	<a href="#">Central</a>
<a href="#">GoTo Training</a>	<a href="#">RescueAssist</a>	<a href="#">Pro</a>
<a href="#">Enhanced Audio</a>	<a href="#">GoTo Resolve</a>	<a href="#">GoToMyPC</a>
<a href="#">OpenVoice</a>	<a href="#">Miradore</a>	
<a href="#">OpenVoice Integrated</a>		
<a href="#">OpenVoice Integrated</a>		
<a href="#">Unlimited</a>		
<a href="#">OpenVoice Integrated Flat</a>		
<a href="#">Rate</a>		
<a href="#">Call Me</a>		
<a href="#">Grasshopper</a>		
<a href="#">GoTo Connect</a>		



**Last Updated: March, 2023**  
**(2023.v2)**

### **General Information Definitions**

**Use Levels.** Use Levels means the model by which we measure, price and offer the Services as set forth on the applicable price list, Order, and/or Service Description. You are responsible for designating and managing your Users and their use of the Services in accordance with the Agreement and the Use Levels set forth in the Order and/or the Service Descriptions. Each User must have a unique Named User ID that may not be shared among Users. The Customer Administrator may reassign a reasonable number of Users, NACs, or Concurrent Seats, from time to time, and following any reassignment the previously designated User, NACs, or Concurrent Seat shall no longer be entitled to access the Service without incurring additional Fees. We reserve the right to review your usage, in our sole discretion, determine if you are exceeding the appropriate Use Levels, and, subject to applicable law:: (i) suspend your access to the Services; (ii) terminate the Service; and/or (iii) invoice you for actual usage. Should we suspect that any User information is not accurate, current or complete, we reserve the right to suspend or terminate your or your User's usage of the Services.

**Definitions.** All terms not otherwise defined herein shall have the meanings set forth in the Agreement. For any conflict between these Service Descriptions and the terms in any other component of the Agreement, the terms below control for the applicable Service only.

- **Administrator** means an individual you designate (or by default, the authorized signatory of the Agreement) who manages the Administration Center including, but not limited to, designating any NAU.
- **Administration Center** means a portal for Administrators that provides end-user and account-management tools, and a centralized control for administration and deployment of the Service.
- **Content** means any files, documents, recordings, and other information belonging to you, users or others as may be uploaded to your account for storage and/or as used, presented or shared with third parties in connection with the Service.
- **Named Authorized User, NAU, Named Authorized Audio User, NAAU** means those designated individuals who may access and use the Services in accordance with the Agreement. Each NAU or NAAU must have a Named User ID. Designated individuals

may include, by way of example, employees, contractors, consultants and agents and third parties with whom you transact business as designated by an Administrator.

- **Named Authorized Computers, or NACs** means designated host computers, whether physical or virtual machines, that may be accessed in accordance with the GoToMyPC Service.
- **Named User ID** means the unique identifier of each designated individual or NAC authorized to use the Services. A Named User ID must be unique and may not be of a generic nature (e.g., [john.doe@goto.com](mailto:john.doe@goto.com) is a unique Named User ID; whereas [user1@goto.com](mailto:user1@goto.com), or [trainer@goto.com](mailto:trainer@goto.com) are examples of generic user identifiers).
- **User or Unit** means, individually or collectively, NAU, NAAU, and/or NAC.

**Alternative Subscription Models.** Alternative subscription models describe non-standard ways that Services may be used, provisioned or billed.

- **Concurrent Seat** means a subscription model for certain Services under which multiple Named User IDs are permitted to log in consecutively to an active Concurrent Seat.
- **Bundle Subscription** means the method by which you subscribe to multiple Services for a specific number of Universal Users. Bundle Subscriptions are predefined and priced.
- **Universal User** means those designated individuals who may access and use multiple Services in accordance with the Agreement. Each Universal User must have a Named User ID, and the total number of Universal Users may not exceed the aggregate number of Bundle subscriptions.
- **Flexible Use Models** refer to a variety of alternative billing models intended to allow customers with variable or seasonal usage patterns to maintain an active account with us without committing themselves to monthly or annual expenses that exceed their need. The currently available models are set forth below and may not be available for all Services.
  - **Subscription-based Flex Subscription** (fka "Active Rolling Host (ARH)": You may purchase a minimum number of NAU subscriptions for applicable Services as set forth on an Order ("Minimum") for which you will be billed on a monthly basis and will have access to a total number of NAU subscriptions equal to 7 times the Minimum ("Maximum"). In any month that your usage exceeds the Minimum, you will be invoiced per subscription used at a rate equal to either: (i) 20% above the monthly subscription fee in your Order; or (ii) the pre-defined flat rate per NAU above the Minimum set forth in your Order. For the first two (2) billing cycles of

the Initial Term, you will pay only for the Minimum during that period ("Flex Up Period").

- **Event-based Flex Subscription:** For available Services, you may maintain an active account with us by paying a reduced monthly subscription fee and making purchases on a per-event basis.
- **Site License** means the purchase of a single subscription to the applicable Service that provides you with use of the Service for every employee within one or more defined company domains at a flat fee. The Site License pricing and any associated fees are calculated based on the number of employees within the domain(s), not the number of those employees who actually use the Service. Upon renewal of the Service, we may adjust the Site License fee to reflect a change in the number of employees within the domain(s). Your initial maximum employee count will be as set forth in the "Services and Fee Summary" section of the applicable Order.

**Customer and Technical Support.** Support is available at <https://support.goto.com/>.

**Training.** We may make available to you online training sessions for individuals who are Named Authorized Users or authorized by you to access the Services. Additional fees may apply.

**Privacy Policy.** Unless otherwise noted in the applicable Service Description, the Privacy Policy located at <https://www.goto.com/company/legal/privacy> applies.

**Additional Services:** For Services no longer available for purchase, the Service Description last applicable to such Service shall apply.

**Communications Collaboration**

**Communications Collaboration Services** are online communication services that enable individuals and organizations to easily, securely and cost-effectively interact using a rich set of features which varies by Service offering and may include: desktop screen sharing, HDFaces video conferencing, and integrated audio. The Services are delivered via web browser, mobile application, or client executable, through a globally distributed network of proprietary hardware and software, hosted and operated by GoTo, its affiliates, and partners. For purposes of these Services an Organizer is an authorized user of the Services who can initiate Services and invite Attendees (each Organizer must have an associated Named User ID) and an Attendee is an individual who is invited by the Organizer to attend a meeting or Event.

- **Emergency Services.** Except for GoTo Connect (defined below), you understand that the Services: (a) do not offer “dial-tone” functionality; and (b) cannot be used for calls to emergency service numbers (which may include 911, 999, and 112). In the event of

an emergency, you should utilize the telephone service provided by your local telephone carrier to make an emergency call.

- **GoTo Meeting** enables users to schedule, convene and moderate meetings using the GoTo Meeting web site, mobile application, or executable customer software.
- join.me enables users to schedule, convene and moderate meetings using the join.me web site, mobile application, or executable customer software.
- **GoTo Meeting Messenger** enables GoTo Meeting customers to initiate out-of-meeting chat sessions and engage in one-on-one or group chat sessions. Users can invite non-GoTo Meeting customers to use Messenger and such users must create an identity with GoTo prior to using Messenger.
- **GoTo Room**
  - **Overview.** GoTo Room allows you to configure a video conferencing solution in your physical conference room. The Service includes: (i) a hardware kit; (ii) a seat of GoTo Room which allows for “Meet Now” functionality or attending/starting GoTo Meeting sessions subject to the Terms of Service located at <https://www.goto.com/company/legal/terms-and-conditions>; and (iii) limited technical support. Each conference room is a Named User ID for purposes of the NAU definition and is not considered a generic user. The hardware kit consists of third-party manufactured, off-the-shelf components including an audio device, video camera, computing device, input device (e.g., touch panel or keyboard and mouse), and an instruction sheet for installation (the “Kit”). GoTo orders the Kit on your behalf and you consent to the sharing of your required information for this purpose. A distributor of GoTo’s choosing will configure and deliver the Kit to you. GoTo will process your order and generate a tracking number within seven business days from order placement, however actual delivery times may vary depending on the delivery location. The Kit will be delivered with GoTo Room preloaded for immediate use.
  - **Kit Warranties.** You take delivery of and title to the Kit directly from the distributor and any licenses or warranties from the manufacturer of the components passes directly to you. You must inform GoTo of any missing or incorrect Kit components within 48 hours of delivery. During the 12-month period following the purchase date, if all, or any part, of the Kit does not perform, GoTo will replace the component or kit at no charge to you. Following this 12-month period, the Kit is provided on an “AS IS” BASIS WITHOUT WARRANTIES OF ANY KIND, except to the extent that any manufacturer warranty remains in effect. GoTo does not accept return of used Kits and will not issue refunds for them. However, in the event that you are unsatisfied with the performance of the Kit, GoTo may, at its sole option, approve return on the Kit and may charge a reasonable restocking fee.

- **Dolby Hardware.** If you are purchasing or leasing any Dolby equipment as part of your GoTo Room purchase, the terms of the end user license agreement for Dolby Voice Client software, available at <https://www.goto.com/company/legal/dvc-eula>, are incorporated by reference. In addition, if you entered into any lease or Room-as-a-Service (“RaaS”) purchase of Dolby equipment as part of your GoTo Room purchase on or before August 3, 2020, whether separately listed on the Order or bundled with Services, the lease terms at <https://www.goto.com/company/legal/dolby-lease> apply to such lease and are incorporated by reference.
- **GoTo Room-as-a-Service Purchases.** If you are purchasing any GoTo Room Kit as part of a GoTo Room RaaS offering, the GoTo Room-as-a-Service (RaaS) Terms, available at <https://www.goto.com/company/legal/lmi-raas>, apply to such purchase.
- **Technical Support.** GoTo will provide standard customer and technical support consistent with the support level for GoTo Meeting Plus, and Level 1 support for the Kit. Support is available at the Product Support Portal located at <https://support.goto.com/>.
- **GoTo Webinar** enables organizations to conduct do-it-yourself, one-to-many information presentation events reaching local and global Attendees over the Internet. Webinars are scheduled, convened and moderated using the GoTo Webinar web site and/or executable customer software.
- **GoTo Stage** is an online video hosting platform designed to enable individuals and organizations to manage and share the Content they create, as well as view Content created by others. By posting or sharing Content on GoTo Stage, you agree that such Content may be hosted, distributed or broadcast by GoTo, and consent to it being archived by GoTo until removed by you, even after you cease to be a customer. As a viewer, you will be required to create an identity to access relevant and recommended content and you agree to share your viewing history and preferences with GoTo and content creators, subject to GoTo’s [Privacy Policy](#).
- **GoTo Webcast**
  - **Overview.** GoTo Webcast is an online self-service, webcasting service that enables organizations or individuals to broadcast or stream video and audio live or on-demand to a maximum of 5,000 online Attendees of an Event. Webcasts are scheduled and convened using the GoTo Webcast website. Each NAU may run only 1 GoTo Webcast Event at any particular time, with a maximum duration of 8 hours and an Attendee limit as set forth in the Order.
  - **Fees; Overages.** During each Event, you may exceed the contracted Attendee quantity by not more than 10% (“Attendee Buffer”), at no additional Fee.

Overages in excess of the Attendee Buffer are subject to additional Fees.

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- **Customer Content.** We reserve the right (but shall have no obligation) to pre-screen, review, flag, filter, modify, refuse or remove Content that violates the Terms of Service, or any applicable policies, laws, or regulations. You acknowledge and agree that: (i) you are solely responsible for all Content created, transmitted or displayed while using the GoTo Webcast Service, and for any loss or damage suffered by us or any third party relating to the Content; and (ii) we have no responsibility or liability for deletion or failure to store the Content and other communications maintained or transmitted through use of the GoTo Webcast Service.
- **Technical Support.** GoTo Webcast includes Event support through the Attendee Resource Portal and Presenter Resource Portal, web-based searchable knowledge bases; and FAQs, Live Chat, and Interactive Voice Response for Attendees and presenters. You can access these support options through your GoTo Webcast account.
- **Event Services** is a consulting and support service that assists with planning and delivery of webinars or trainings. Event Services includes assignment of an event producer and may be purchased at a specific Service level. Event Services shall be invoiced upon ordering, are not eligible for refunds and expire if not fully used within 12 months of date of the Order. Additional fees may apply for orders placed, changed, or cancelled within 72 business hours of scheduled event. You agree that all Event Services provided by us are for your benefit only, and you are solely responsible for all content of your webinars and trainings. You are not permitted to resell, share, distribute or otherwise disclose any advice or instruction provided by us in connection with the Event Services.
- **GoTo Training** enables users to schedule, convene and moderate training sessions using the GoTo Training web site or executable customer software.

### **Enhanced Audio Services**

- **General Information**
  - **Fee Commitment.** You will be billed monthly in arrears for the greater of: (i) the monthly minimum periodic Fees as set forth in the Order; or (ii) your actual usage at the price per minute per line rates as set forth in the Order. Current regional standard rates for Enhanced Audio Services are available in the administration center and/or My Account page of the Customer portal. Standard rates are subject to change without notice.

- **Ramp Up Period** means the first 2 billing cycles of the Initial Term during which the Audio Fee Commitment will be waived and you will pay only for actual minutes used during that period.
- **Use of Service.** We reserve the right to review your usage of the Enhanced Audio Services to determine abnormal usage, or any usage that violates the Agreement. We may determine abnormal usage through comparison with overall customer usage patterns, including minutes used, number of unique numbers connected, usage patterns, and other factors. If we determine that you are engaging in abnormal use or use that otherwise violates the Agreement, we may, in our sole discretion, transfer you to a more appropriate Service plan, charge applicable rates, suspend, and/or terminate your Enhanced Audio Services with or without notice. If we believe that you have used the Enhanced Audio Services for unlawful purposes, we may immediately terminate your Agreement with or without notice and forward the relevant communication and other information to the appropriate authorities for investigation and prosecution.
- **Termination of Enhanced Audio Services in Conjunction with Services.** In the event Customer terminates its subscription of GoTo Meeting, join.me, GoTo Webinar or GoTo Training in accordance with the terms of the Agreement, your Enhanced Audio Services shall also terminate, and we will refund to you any prepaid but unused Fees.
- **Enhanced Audio** provides U.S. and international toll free numbers solely for use as an integrated, additional audio option with GoTo Meeting, join.me, GoTo Webinar and GoTo Training (and requires a corresponding subscription for those services that must remain active for Enhanced Audio to be used). Fees are charged on a per-minute, per-line usage basis at the rates set forth in the Order.
- **Enhanced Audio Flat Rate** is available for integrated use with GoTo Meeting (may not be available for all GoTo Meeting tiers), subject to certain restrictions as set forth on the Order. Enhanced Audio Flat Rate is provisioned with toll free and Call Me numbers solely for use as an additional audio option for your online meetings. You pay a set monthly fee for uncapped usage (up to the Monthly Fair Use Limit) by GoTo Meeting organizers or attendees who dial in using the toll-free or dial out using the Call Me numbers. You must separately subscribe to GoTo Meeting in order to use this Service. The number of Named Authorized Audio Users must equal the number of Named Authorized Users of GoTo Meeting. Enhanced Audio Flat Rate is available for purchase only in designated countries.
  - **Named Authorized Audio User or NAAU.** The number of NAAUs for your Enhanced Audio Flat Rate account shall be issued on a 1:1 ratio to the number of Named Authorized Users for the GoTo Meeting Service, and shall be increased

automatically upon the purchase of additional Named Authorized Users of Meeting and invoiced on your next regularly scheduled invoice.

- **Subscription Fees and Monthly Fair Use.** You will be billed annually in advance for the Enhanced Audio Flat Rate Fees set forth in the Order. The Monthly Fair Use Limit means the monthly aggregate total of 3,000 minutes per NAAU multiplied by the total number of NAAUs authorized for your account and is determined based on minutes used with GoTo Meeting only. Usage of: (1) toll free numbers in GoTo Webinar or GoTo Training; and/or (2) toll-free and Call Me (GoTo Meeting only) usage outside of the countries specified in the Order, will be billed under the standard Enhanced Audio toll-free service described above, and is not counted in the Monthly Fair Use Limit calculation.
- **Use of Service.** We reserve the right to review your usage of the Enhanced Audio Flat Rate Service to determine if such usage exceeds the Monthly Fair Use Limit or violates the Agreement. We may determine abnormal usage through comparison with overall customer usage patterns, including minutes used, number of unique numbers connected, usage patterns, and other factors. If we determine that you have exceeded the Monthly Fair Use Limit, or you are engaging in use that otherwise violates the Agreement, we may, in its sole discretion, transfer you to a more appropriate Service plan, charge applicable rates, or suspend or terminate your Enhanced Audio Flat Rate Service with or without notice. If we believe that Customer has used the Audio Service for an unlawful purpose, we may immediately terminate your Agreement with or without notice and/or forward the relevant communication and other information to the appropriate authorities for investigation and prosecution.
- **Call Me** is a feature available for use with GoTo Meeting that allows meeting organizers to give attendees of a meeting or conference call the option to enter a phone number and receive a call from the GoTo Meeting service to that number at the time the meeting starts. Fees are either: (1) charged on a per-minute, per-line usage basis at the same rates set forth in the Order for Enhanced Audio toll-free; or (2) at a flat rate (up to the Monthly Fair Use Limit) as set forth in the Order, when Call Me is provided as a feature of Enhanced Audio Flat Rate. Attendee is responsible for the accuracy of the phone number entered, and Organizers are responsible for verifying the identity of Attendees joining using Call Me, and any charges arising from the use, even if an attendee enters an inaccurate phone number.

### **OpenVoice Services (Telecommunications)**

- **General Information**

- **Fee Commitment.** You will be billed monthly in arrears for the greater of: (i) the monthly minimum periodic Fees payable to GoTo Audio as set forth in the Order;



or (ii) your actual usage at the price per minute per line rates as set forth in the Order. Current regional standard rates for Audio Services are available in the administration center and/or My Account page of the Customer portal. Standard rates are subject to change without notice.

- **Ramp Up Period** means the first 2 billing cycles of the Initial Term during which the Audio Fee Commitment will be waived and you will pay only for actual minutes used during that period.
- **Use of Service.** GoTo Audio reserves the right to review your usage of the Audio Services to determine abnormal usage, or any usage that violates the Agreement. GoTo Audio may determine abnormal usage through comparison with overall customer usage patterns, including minutes used, number of unique numbers connected, usage patterns, and other factors. If GoTo Audio determines that you are engaging in abnormal use or use that otherwise violates the Agreement, GoTo Audio may, in its sole discretion, transfer you to a more appropriate Service plan, charge applicable rates, suspend, and/or terminate your OpenVoice Services with or without notice. If GoTo Audio believes that you have used the OpenVoice Services for unlawful purposes, GoTo Audio may immediately terminate your Agreement with or without notice and forward the relevant communication and other information to the appropriate authorities for investigation and prosecution.
- **Termination of OpenVoice Services in Conjunction with Services.** In the event Customer terminates its subscription of GoTo Meeting, join.me, GoTo Webinar or GoTo Training in accordance with the terms of the Agreement, your OpenVoice Services shall also terminate, and GoTo Audio will refund to you any prepaid but unused Fees.
- **OpenVoice** is a stand-alone audio conferencing solution, accessed via touchtone telephone, and supports both traditional, land-line dial in and mobile phone access for up to 500 audio conferencing connections in a single meeting. Organizers have 24/7 access to full-featured reservation-less audio conferencing, and you have access to the administrative account, billing and management web portal. OpenVoice is charged on a per-minute, per-line usage basis at the rates set forth in the Order. You can provision unlimited Organizer accounts, and each Organizer will receive a unique conference room number, Organizer PIN and access to the Organizer’s meeting management web portal.
- **OpenVoice Integrated** provides U.S. and international toll free numbers solely for use as an integrated, additional audio option with GoTo Meeting, join.me, GoTo Webinar and GoTo Training (and requires a corresponding subscription for those services that must remain active for OVI to be used). Fees are charged on a per-minute, per-line usage basis at the rates set forth in the Order. If you cancel the corresponding subscription to GoTo Meeting, join.me, GoTo Webinar or GoTo Training, your OVI

subscription will be automatically transferred to OpenVoice effective as of the date of cancellation of the Service.

- **OpenVoice Integrated Unlimited (“OVIU”)** is available for integrated use with GoTo Meeting, subject to certain restrictions as set forth on the Order. OVIU also includes a separate concurrent subscription to OpenVoice as described above. You are provisioned with toll free numbers solely for use as an additional audio option for your online meetings. You pay a set monthly fee for uncapped usage by GoTo Meeting organizers or attendees who dial in using the toll-free numbers, and is charged based on usage at the price per minute per line rates listed on the Order. You must separately subscribe to GoTo Meeting in order to use this Service. The number of Named Authorized Audio Users must equal the number of Named Authorized Users of GoTo Meeting. OpenVoice Integrated Unlimited is available for purchase only in designated countries.
  - **Named Authorized Audio User or NAAU.** The number of NAAUs for your OVIU account shall be issued on a 1:1 ratio for use with the GoTo Meeting Service, and shall be increased automatically upon the purchase of additional Named Authorized Users of GoTo Meeting and invoiced on your next regularly scheduled invoice.
  - **Subscription Fees and Monthly Fair Use.** You will be billed monthly in advance for the OVIU Fees set forth in the Order. The Monthly Fair Use Limit means the monthly aggregate total of 3,000 minutes per NAAU multiplied by the total number of NAAUs authorized for your account and is determined based on minutes used with GoTo Meeting only. Usage of toll free numbers in GoTo Webinar or GoTo Training is billed under the standard OpenVoice Integrated toll-free service described above, and is not counted in the Monthly Fair Use Limit calculation.
  - **Use of Service.** GoTo Audio reserves the right to review your usage of the OVIU Service to determine if such usage exceeds the Monthly Fair Use Limit or violates the Agreement. GoTo Audio may determine abnormal usage through comparison with overall customer usage patterns, including minutes used, number of unique numbers connected, usage patterns, and other factors. If GoTo Audio determines that you have exceeded the Monthly Fair Use Limit, or you are engaging in use that otherwise violates the Agreement, GoTo Audio may, in its sole discretion, transfer you to a more appropriate Service plan, charge applicable rates, or suspend or terminate your OVIU Service with or without notice. If GoTo Audio believes that Customer has used the Audio Service for an unlawful purpose, GoTo Audio may immediately terminate your Agreement with or without notice and/or forward the relevant communication and other information to the appropriate authorities for investigation and prosecution.

- **OpenVoice Integrated Flat Rate (OVIFR)** is available for integrated use with GoTo Meeting (Starter, Pro, Plus, and/or when utilizing a Flex Subscription), subject to certain restrictions as set forth on the Order. OVIFR also includes a separate concurrent subscription to OpenVoice as described above and is provisioned with toll free and Call Me numbers solely for use as an additional audio option for your online meetings. You pay a set monthly fee for uncapped usage (up to the Monthly Fair Use Limit) by GoTo Meeting organizers or attendees who dial in using the toll-free or dial out using the Call Me numbers. You must separately subscribe to GoTo Meeting in order to use this Service. The number of Named Authorized Audio Users must equal the number of Named Authorized Users of GoTo Meeting. OVIFR is available for purchase only in designated countries.
  - **Named Authorized Audio User or NAAU.** The number of NAAUs for your OVIFR account shall be issued on a 1:1 ratio to the number of Named Authorized Users for the GoTo Meeting Service, and shall be increased automatically upon the purchase of additional Named Authorized Users of GoTo Meeting and invoiced on your next regularly scheduled invoice.
  - **Subscription Fees and Monthly Fair Use.** You will be billed annually in advance for the OVIFR Fees set forth in the Order. The Monthly Fair Use Limit means the monthly aggregate total of 3,000 minutes per NAAU multiplied by the total number of NAAUs authorized for your account and is determined based on minutes used with GoTo Meeting only. Usage of: (1) toll free numbers in GoTo Webinar or GoTo Training; and/or (2) toll-free and Call Me usage outside of the countries specified in the Order, will be billed under the standard OpenVoice Integrated toll-free service described above, and is not counted in the Monthly Fair Use Limit calculation.
  - **Use of Service.** GoTo Audio reserves the right to review your usage of the OVIFR Service to determine if such usage exceeds the Monthly Fair Use Limit or violates the Agreement. GoTo Audio may determine abnormal usage through comparison with overall customer usage patterns, including minutes used, number of unique numbers connected, usage patterns, and other factors. If GoTo Audio determines that you have exceeded the Monthly Fair Use Limit, or you are engaging in use that otherwise violates the Agreement, GoTo Audio may, in its sole discretion, transfer you to a more appropriate Service plan, charge applicable rates, or suspend or terminate your OVIFR Service with or without notice. If GoTo Audio believes that Customer has used the Audio Service for an unlawful purpose, GoTo Audio may immediately terminate your Agreement with or without notice and/or forward the relevant communication and other information to the appropriate authorities for investigation and prosecution.
- **Call Me** is a feature available for use with GoTo Meeting that allows meeting organizers to give attendees of a meeting or conference call the option to enter a

phone number and receive a call from the GoTo Meeting service to that number the time the meeting starts. Fees are either: (1) charged on a per-minute, per-line usage basis at the same rates set forth in the Order for OpenVoice Integrated toll-free; or (2) at a flat rate (up to the Monthly Fair Use Limit) as set forth in the Order, when Call Me is provided as a feature of OVIFR. Attendee is responsible for the accuracy of the phone number entered, and Organizers are responsible for verifying the identity of Attendees joining using Call Me, and any charges arising from the use, even if an attendee enters an inaccurate phone number.

**Grasshopper Services** are provided by Grasshopper Group LLC (“Grasshopper”), the communications provider responsible for the rates, terms and conditions relating to all Grasshopper Services.

- **Overview.** Grasshopper is a Virtual PBX (private branch exchange) telecommunication service that provides you with toll free or local numbers. You own provisioned numbers and may port those numbers to any other provider prior to termination of your account. Details about transferring numbers are available at [www.grasshopper.com/numberporting](http://www.grasshopper.com/numberporting). Additional telecommunication and non-telecommunication features, services, and applicable pricing are available at <https://grasshopper.com/how-it-works-and-features/add-ons>.
  - **Grasshopper Connect Services** are a communications solution which uses the same technology as Grasshopper to provide a second phone number to a user’s cell phone, however, it also utilizes an app to combine phone calls, text messages, and emails into one unified inbox. The app allows users to see all of their conversations together and adds email integration. Each conversation is sorted by contact, allowing all the communications from one contact in a single timeline view. The goal is for users to increase visibility into their business communications and reply faster to their customers.
  - **Ruby Receptionists Services.** If you are purchasing any Ruby Receptionists Services as part of your Grasshopper purchase, the additional terms listed at <https://www.goto.com/company/legal/ruby-terms> apply to such purchase and are incorporated by reference.
- **Emergency Service.** GRASSHOPPER IS NOT A "DIAL-TONE" PROVIDER. GRASSHOPPER CANNOT BE USED FOR EMERGENCY SERVICES. IN THE EVENT OF AN EMERGENCY WHILE USING THE SERVICES, YOU MUST HANG UP AND DIAL A LOCAL EMERGENCY NUMBER USING THE TELEPHONE SERVICE PROVIDED BY YOUR LOCAL CARRIER.
- **Reasonable Use Policy.** Grasshopper Services plans are offered on an "unlimited use" and/or “unlimited minutes” basis and: (i) may only be used for normal business use; (ii) are provided only for live dialog between two individuals; and (iii) exclude

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international calling, which is available for an additional fee. Grasshopper Service may not be used for any of the following prohibited uses:

- Trunking or forwarding your Grasshopper number to another phone number capable of handling multiple simultaneous calls, or to a PBX or a key system;
  - Spamming or blasting (e.g., sending 100 or more bulk and/or junk voicemail or faxes simultaneously);
  - Bulk call-in lines (e.g., customer support or sales call centers, "hotlines", 900 numbers, sports-line numbers, etc.);
  - Text message blasting (any volume of text messages sent by you, which interferes with the use of Grasshopper's network or systems or the network of any other provider, as determined by Grasshopper)
  - Auto-dialing or "predictive" dialing (i.e., non-manual dialing or using a software program or other means to continuously dial or place out-bound calls).
- Grasshopper reserves the right without prior notice to: (i) disconnect or suspend your Service if Grasshopper determines that your use of the Service violates this Reasonable Use Policy, or if you consistently exceed 50,000 minutes per month or 50 concurrent calls at any time; and (ii) to terminate voice calls exceeding a 6 hour duration and fax calls exceeding a 3 hour duration. This Reasonable Use Policy also applies to "unlimited" extensions that are limited to 1,000 extensions to each account. Additional extensions may require an additional Grasshopper account. Unlimited Voice Studio enables you to record an "unlimited" number of greetings and messages of up to 750 words each. Greetings or messages in excess of 750 words will be subject to an additional Fee of 75.00 USD for every 750 words. Grasshopper may add to, modify or amend the Reasonable Use Policy at any time for any reason in its sole discretion.
  - **Account Changes and CPNI Compliance.** You may request changes to Service features or Service plans (changes to a Service plan, may not take effect until your next Term) by notifying Grasshopper in writing or by telephone and when contacting Grasshopper, must provide: name, address, account number, and administrative PIN, or be submitted from the original email address on file. Grasshopper protects your Proprietary Network Information (CPNI) by using this pin. Telecommunications providers are subject to the FCC's rules protecting CPNI. Additional information about CPNI is available on the FCC website at <http://apps.fcc.gov/eb/CPNI/index.cfm>.
  - **Term.** The Initial Term for the Grasshopper Services may be either monthly or annual, based on the period associated with the Services purchased when you place your order. The Initial Term begins on the date Grasshopper activates Services for your

Account and will renew for a period equal to the Initial Term thereafter until terminated by either party pursuant to the terms below.

- **Fees.** Fees will be charged either in advance or in arrears, as set forth herein. Fees charged in advance include recurring charges such as Service plan charges (including any related taxes or fees that are permitted to be charged in advance), add-ons and upgrades, and non-recurring charges (e.g. one-time charge(s) or fees). Fees charged in arrears include usage charges (e.g. overages), international, long distance and directory assistance charges, and taxes and surcharges (e.g. Telecommunications Sales Tax, FCC Regulatory Fee, Regulatory Recovery Fees, and Federal Universal Service Fund (USF)).
  - Services plans for toll-free and local numbers include: (i) a flat monthly Service Fee which is the basic charge associated with the Service that includes the calling charges defined by your Service plan; (ii) the number of included plan minutes (“Threshold Amount”); and (iii) an additional minute rate (for use in excess of number of calling minutes on their Service plan, Grasshopper will bill you for the minutes used above the allowance), in each case for use in the continental United States (excluding Alaska and Hawaii and United States territories) and Canada. Service Plans and Fees are available on the Grasshopper website at <https://signup.grasshopper.com/plans>.
  - International calls (not including calls to Canada) and calls to areas outside the continental United States (including, but not limited to, Alaska and Hawaii and United States territories), including calls forwarded from the continental United States and Canada to such international areas, are charged based on the international outbound rates posted on the Grasshopper website at <https://grasshopper.com/international-rates/>.
  - Grasshopper may charge initiation and additional fees for optional features, add-ons, and additional products and Services. Such Fees are posted on the Grasshopper website at <https://signup.grasshopper.com/plans>. Grasshopper reserves the right to change its pricing and/or billing practices in its sole discretion. Grasshopper bills usage charges in six (6) second increments with an eighteen (18) second minimum, or as otherwise set forth in the applicable Service plan. IN ORDER TO ENABLE INTERNATIONAL CALLING ON AN ACCOUNT YOU MUST PAY AN INITIAL DEPOSIT OF 500.00 USD. THIS DEPOSIT WILL BE USED TO PAY CHARGES AS THEY ARE INCURRED ON YOUR ACCOUNT. Usage charges are billed in arrears. Excess use charges for additional minutes are billed on the sooner of the month following such usage, or when the usage results in a charge that exceeds your Threshold Amount. Credit or debit cards will automatically be billed on the sooner of: monthly or upon reaching the Threshold Amount, and no additional notice or consent will be required for billings to that credit or debit card or account. Billing cycle end dates may change from time to

time. When a billing cycle covers less than or more than a full month, Grasshopper may make reasonable adjustments and pro-rations. Service plans are charged where applicable, annually, monthly or upon the accrual of usage-based fees which result in charges that exceed the Threshold Amount for your account, whichever comes first. The Threshold Amount is set by Grasshopper and may vary based on your plan of Service, usage and account history.

- Except where prohibited by applicable law, Grasshopper may charge a monthly Regulatory Recovery Fee in connection with any telephony services provided to Customers within the United States to offset costs incurred by Grasshopper in complying with inquiries and obligations imposed on Grasshopper by federal, state, municipal and/or other regulatory bodies and government agencies. This fee is not a tax or charge required or assessed by any government. Regulatory Recovery Fees are presented as separate line-item on invoices, and the initial rates will be set forth in any quote for Services. Grasshopper may increase or decrease the regulatory recovery fee without notice.
- **Default and Termination.** You may terminate the Grasshopper Service in accordance with the Terms of Service and by providing notice of termination by submitting a ticket to Grasshopper’s Billing Department at <http://support.grasshopper.com>, and upon receipt of ticket, Grasshopper will generate a cancellation ticket to cancel your Account and will email you a cancellation ticket number to confirm Grasshopper’s receipt of your termination notice. Termination requests will be fulfilled within 1 business day. If you do not receive a cancellation ticket number, termination notice may not have been received by Grasshopper, and you should contact Customer Support at 1-800-820-8210 or 1-617-395-5700 to verify the generation of a cancellation ticket number. Because minutes are paid in arrears, a final payment for minute usage will be processed on your next billing date after termination. Following termination of the Grasshopper Services, you shall have no right to receive, and Grasshopper will have no obligation to forward any unread or unsent messages to you or any third party. Grasshopper may require reactivation charges to renew Services after termination or suspension. Upon termination, you are responsible for paying all undisputed amounts and charges owing under this Agreement. Past due balance on previous or multiple accounts will be charged the full balance due upon opening a new account or updating your credit or debit card on file.
- **Blacklisted Destinations.** Grasshopper reserves the right, in its sole discretion, to block access to certain international countries and locations that are frequently implicated in fraudulent calls (“Blacklisted Destinations”). At your request and subject to specific conditions, Grasshopper may provide you access to Blacklisted Destinations.
- **Privacy and Recording.** You authorize Grasshopper to: (i) monitor and record calls to Customer Service regarding your account or the Services; and (ii) contact you from

time to time by means of (a) phone calls, voice mail, push notifications or text messages to phone numbers provided by Grasshopper or other phone numbers you provide to Grasshopper for contact purposes, which may be sent using automatic dialing equipment, or (b) your Grasshopper voicemail box. Grasshopper may also monitor or record calls passing through Grasshopper’s networks and systems solely for troubleshooting and/or Service quality control checks required for the provision of Services. This recording may be done with or without additional notice and such recordings will only be used for quality and training purposes.

- **Accessibility Feedback.** To provide accessibility feedback pursuant to the Accessible Canada Act, or to request a description of our accessibility feedback process in an alternate format, you can contact us at [accessibilityfeedback@goto.com](mailto:accessibilityfeedback@goto.com) or (781) 850-1458.

**GoTo Connect Services**

**GoTo Connect** (formerly Jive) is a cloud-based VoIP service which combines audio, video, and screensharing capabilities with cloud-based telephony and messaging services, including contact center services and associated enabling hardware, to provide a fully integrated application that allows users to connect and communicate internally and externally via a web browser or downloadable application. Additionally, certain packages for GoTo Connect may incorporate other GoTo Services referenced in these Service Descriptions, and which shall be subject to the terms applicable to such Services. All non-PBX based audio conferencing is provided in accordance with the OpenVoice Services set forth above. Third-party add-on services (a “Third Party Service” under the Terms of Service) may be purchased for GoTo Connect, such as those described here:

**GoTo Connect - Teams Edition.** GoTo Connect - Teams Edition, is a voice-only version of GoTo Connect bundled with the Connector (defined below), enabling you to make and receive calls within your Microsoft Teams account.

**GoTo Connect Teams Connector.** GoTo Connect Teams Connector (or “Connector”) is a third-party add-on service for your existing GoTo Connect account which enables your GoTo Connect users to make and receive calls within their Microsoft Teams account using the GoTo Connect platform.

- **Technical Sufficiency Criteria.** GoTo Connect requires a properly-configured, high performance, enterprise-grade broadband IP network and connection. Use of GoTo Connect with any network, services, or connection not compatible with GoTo Connect may result in partial or complete unavailability, interruption, or underperformance of GoTo Connect or other services utilizing the same network, services, or connection. Customer will provide and maintain, at its own cost, an IP network, services, and connection meeting the foregoing standard and all equipment necessary for GoTo Connect to connect to and use such network, services, and connection.

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- **Adding or Removing Services.** You may add users to your account at any time, we will prorate the associated Service Charges for the first month. To reduce the number of users, or to terminate this agreement, you must notify us no less than 10 days before the end of the Term, and the reduction or termination will take effect after the end of the then-current Term. If you remove all billable devices from your account, you will continue to be billed for a minimum of one device until the services are terminated or additional devices are added. For the purposes of this Addendum, **“Service Charges”** means fixed monthly charges for the Services on your account.
- **Rates.** GoTo Connect includes (subject to fair usage) in-country calling to the applicable landline and mobile phone number (excluding information service/special number prefixing). Out of country (international calling) would adhere to the applicable GoTo Connect international calling plan with rates defined by country and call type (i.e., landline or mobile). In some instances, international calls to landlines would incur no charge to the Customer (subject to fair usage). All other calls will be billed based on the current regional standard rates set forth in the applicable GoTo Connect calling plan.
- **Rate Adjustment.** Standard rates are subject to change without notice. We reserve the right to revise rates once per year at any time after the Initial Term and upon thirty (30) days’ prior written notice. Pricing may also change due to regulatory requirements, market conditions, or other pass through charges. The preceding provisions on rate adjustment shall not apply if the Regional Supplement (see below) contains a different process for rate adjustment in your country.
- **Regional Supplement.** If you are purchasing GoTo Connect from outside of North America, the Regional Supplement at <https://www.goto.com/company/legal/regional-supplement> shall apply to you.
- **Emergency Services in North America.**
  - **Availability and Use of Emergency Services.** You acknowledge (1) that you have read and understood our 911 Service Availability Policy, which is available at <https://www.goto.com/company/legal/911-service-availability-policy>, and (2) that the 911 dialing service we offer (“GoTo Connect 911 Dialing”) differs from 911 dialing service offered by traditional telephone carriers in the ways described in the 911 Service Availability Policy, including that GoTo Connect 911 Dialing will not function if you lose electrical power or broadband internet connection or if anything on your wide area network or local area network blocks your connection to our platform. Also, GoTo Connect 911 Dialing will not function if we have deactivated the Services for any reason, including your non-payment.
  - **Physical Location Information.** You must provide us the physical location of each device used to make or receive calls, and we will not activate a device until we have received this information. If you relocate any device, you must promptly

notify our Fulfillment Department of the device's new location by e-mail at [numbers@goto.com](mailto:numbers@goto.com) and you must pay any fees associated with updating the location database. For the purposes of this Addendum, a “**device**” is a physical phone, soft phone, fax machine, analog telephone adapter, or other device used to make or receive calls using the Service.

- **Callback Information.** Location and callback information associated with a device will normally be automatically forwarded to an “**emergency dispatch center**,” defined as any local or national answering point for 911 calls, when using GoTo Connect 911 Dialing. Because some emergency dispatch centers are not equipped to receive such location and callback information, you acknowledge that you may need to provide location and callback information verbally. Automatic forwarding of location and callback information is not activated for any device until we notify you by e-mail that it has been activated.
- The preceding provisions in this section shall not apply if you are purchasing GoTo Connect in Europe and Australia -- consult the [Regional Supplement](#) for more information on your use of emergency services.
- **Emergency Services Outside North America.** If you are purchasing GoTo Connect outside of North America, consult the Regional Supplement for information on your use of emergency services.
- **Regulatory Recovery Fees.** Except where prohibited by applicable law, we may charge a monthly regulatory recovery fee in connection with any telephony services provided to you within the United States, to offset costs we incur in complying with inquiries and obligations imposed on us by federal, state, municipal, and/or other regulatory bodies and government agencies. This fee is not a tax or charge required or assessed by any government. We may increase or decrease the regulatory recovery fee without notice.
- **Reasonable Use.**
  - **“Unlimited” Usage.** You acknowledge that: (a) any reference we have made to “unlimited” minutes, messages or features refers to our practice not to charge for the Services on a per-minute, per-message or per-use basis when use is reasonable; and (b) that we do not offer “unlimited” plans for call center operations, fax or message spamming, or other activities that use an extraordinary amount of connectivity to the public switched telephone network (the “PSTN”). Unless otherwise stated (e.g. in your Order or in the Regional Supplement), we may limit PSTN connectivity, impose per-minute or per-message charges for excessive use, or terminate this agreement if we determine that (i) for calls, your average per-user PSTN connectivity exceeds the monthly aggregate total of 2,500 minutes per month multiplied by the total number of users authorized for your account, or (ii) for messages, your pattern of usage is

excessive as compared to most business customers (e.g. high-volume, automated campaigns).

- **Use Limits.** We may block calls or call destinations we believe are associated with toll fraud, traffic pumping, or high-frequency machine dialing, and we may suspend or terminate Services we believe were obtained by subscription fraud.
- **Equipment and Additional Products.**
  - **Purchase and Cancellation.** You acknowledge that except as set forth below, all equipment purchases are final and non-refundable. Cancelling an equipment purchase does not terminate the Agreement or any Services you have purchased. You may cancel an equipment order you have previously placed: (a) by notifying us no later than 24 hours after submitting the Order; or (b) if, after more than 24 hours from Order submission, you deliver written notice to us no more than 30 days after submitting the Order and pay a 25% restocking fee for all cancelled or rejected equipment purchases. We will not issue a refund until the equipment is returned to us. Returned equipment must be in like-new condition in original packaging. In addition to the restocking fee, you must pay all costs to replace damaged equipment or missing components or packaging.
  - **Shipment.** All equipment is sold FOB our shipping point unless otherwise noted. Delivery of equipment to our or another loading point will constitute delivery to you, and regardless of shipping terms, you will bear all risk of loss or damage in transit.
  - **Manufacturer’s Warranty.** We assign you any and all rights we have under any manufacturer’s warranty for equipment you purchase from us. We may, in our discretion, assist you in obtaining replacement equipment or equipment service under the manufacturer’s warranty.
  - **Equipment Rental.** If you are renting any equipment from us, whether the rental is separately listed on the Order or is bundled with Services, the terms of the equipment rental agreement, available at <https://www.goto.com/company/legal/equipment-rental-agreement>, are hereby incorporated by reference.
  - **NICE CXone.** If you are purchasing a subscription to the NICE CXone (formerly inContact) contact center services (“NICE CXone Services”), the terms of the NICE CXone Services agreement, available at <https://www.goto.com/company/legal/cxone-service-terms>, are hereby incorporated by reference.
  - **Jive Business Continuity.** If you are purchasing a subscription to the Jive Business Continuity service, the terms of the network services agreement,

available at <https://www.goto.com/company/legal/network-services-agreement> are hereby incorporated by reference.

- **SD-WAN Purchase.** If you are purchasing SD-WAN services, the terms of the SD-WAN purchase agreement, available at <https://www.goto.com/company/legal/sd-wan-purchase-agreement>, are hereby incorporated by reference.
- **InformaCast.** If you are purchasing InformaCast mass notification service (available in the United States only), you must not use it to send communications (i) for which the receiving party will incur a charge unless you have first obtained the receiving party's permission or unless responding to an emergency; (ii) to individuals who are not your employees, are not using a device you have provided, or who have not given you affirmative consent; or (iii) to emergency numbers or patient rooms. You also accept Singlewire, Inc. (the owner of InformaCast) as a third-party beneficiary of this agreement for purposes of exercising any of our rights or demanding the performance of your obligations related to the InformaCast service.

### ***Term & Termination.***

- **Term.** Notwithstanding anything to the contrary in the Terms of Service, the Initial Term begins on the Effective Date and will continue for the duration specified on the Order, measured from the first day of the month following the Effective Date. After the Initial Term, the Services will automatically renew for the same period as the preceding term, up to a maximum of 12 months, or as otherwise limited by applicable law (each, a "Renewal Term").
- **Early Termination.** If you terminate the Agreement or the Services purchased hereunder for any reason (except for our material breach), or if we terminate the Agreement or the Services purchased hereunder due to your breach, you will remain responsible for all applicable Service Charges through the end of the Term.
- **Technical and Organizational Measures.** GoTo has implemented measures designed to ensure appropriate privacy, security, availability, and confidentiality of GoTo Connect. You may find out more about these measures by visiting the GoTo Connect page in the "Product Resources" section of [GoTo's Trust & Privacy Center](#).

**GoTo Contact Center** is a cloud-based contact center service that integrates natively with GoTo Connect and provides communication routing and queuing, agent management, and related reporting features.

**GoTo Customer Engagement** is a cloud-based messaging and engagement service that integrates natively with GoTo Connect and provides the ability to create outbound

message campaigns and manage incoming messages in a shared inbox.

- **AI Features (beta).** Your use of the AI-enabled Message Assistant beta feature within this service (which is optional) is subject to the GoTo AI Terms available at <https://www.goto.com/company/legal/ai-terms>.

## **Customer Engagement & Support**

**GoToAssist** is a hosted, web-based, Software-as-a-Service online remote support and access service that combines essential cloud-based support and IT management tools and is designed to help agents support computers, mobile devices, and network infrastructure located anywhere with internet access. You may subscribe to the GoToAssist Service on a per Named Authorized User or Concurrent Seat basis, as set forth in the Order.

- **GoToAssist Corporate** enables individuals and support organizations to connect to customers and provide live remote assistance using two-way screen-sharing, integrated chat, and mouse and keyboard control to resolve technical issues.
- **GoToAssist Remote Support** enables individuals and organizations to connect to customers using two-way screen-sharing, remote access, control, diagnostics, chat and more to resolve technical issues remotely with solutions tailored for a variety of departments including multi-agent call centers, help desks and IT departments. You may use the unattended support feature on up to one hundred (100) computers per the number of Named Authorized Users or Concurrent Seats set forth in the Order. Any Named Authorized User may access any of the computers at any time.
  - **GoToAssist Mobile Support** is an add-on to GoToAssist Remote Support service that allows agents to remotely view, and in certain cases control, select mobile devices through a web browser or application.
- **GoToAssist Service Desk** enables individuals and organizations to manage service desk activities, including incidents, problems, changes, releases, knowledge articles and configuration items, for the purposes of supporting internal and external technology services.

**Rescue** is a web-based remote support and customer care service, which is used by helpdesk professionals to provide remote support via the internet, without the need for pre-installed software. Using *Rescue*, support and service professionals can communicate with end-users through an internet chat window in order to diagnose and repair IT issues.

If given permission by the end-user, the support professional can access, view, or take control of the end-user's computer to take necessary support actions or to train the end-user on the use of software and operating system applications.

- **Rescue+Mobile** is an add-on to *Rescue*'s web-based remote support service that allows call center technicians and IT professionals to remotely access and support iOS, Android and BlackBerry smartphones and tablets.

**Rescue Live Lens** is a browser-based remote visual guidance service for use by agents to provide support for hardware or physical environments. The Service enables end-users to utilize the cameras on supported smartphones or tablets to stream live video back to support professionals who can utilize in-session support tools to assist.

**Rescue Live Guide** is a browser-based support tool for use by agents to provide remote visual guidance on a web page. Rescue Live Guide allows an agent to co-browse a web page with the end-user in real time.

**RescueAssist** (refer to GoToAssist Remote Support above)

**GoTo Resolve** is a web-based remote support, access, management, and ticketing service used by helpdesk professionals to support internal and external users and devices. Devices can be accessed with or without preinstalled software and use remote view, control, diagnostics, chat and additional features to resolve technical issues remotely. Support requests can be submitted and managed across different helpdesk services with the ticketing functionality which includes workflow features like ticket prioritization, status, commenting, and more.

- **GoTo Resolve Mobile Add-On** is an add-on to GoTo Resolve Service that allows helpdesk professionals to remotely view, and in certain cases control, select mobile devices.
- **GoTo Resolve Camera Share Add-On** is an add-on to GoTo Resolve Service which is a visual guidance service that enables end-users to utilize the cameras on supported smartphones or tablets to stream live video back to support professionals who can utilize in-session support tools to assist.
- **AI Features (beta)**. Your use of the AI-enabled Script Generator beta feature within this service (which is optional) is subject to the GoTo AI Terms available at <https://www.goto.com/company/legal/ai-terms>.

**Miradore** is a multi-device, enterprise mobility, and unified endpoint management solution that allows IT teams to manage end users across a variety of devices (e.g., iOS, Android, Windows, and MacOS). It is designed to enable IT professionals to stay up to date with their device fleet, automate device management across multiple operating systems, distribute applications, and provide remote support to device users.

## **Identity & Access Management**

**LastPass Business** is a password management solution that empowers employees to generate, store, and share credentials, while providing insight and control to Admins. LastPass Business offers additional access and authentication features, including single sign-on for simplified access to a limited number of cloud applications and multifactor authentication to secure the LastPass vault and single sign-on applications.

**LastPass Advanced Single Sign-On Add-On (“LastPass SSO”)** enables users to access unlimited cloud applications through a single sign-on to deliver simplified employee access to key apps, while reducing the number of passwords employees must manage.

**LastPass Advanced Multifactor Authentication Add-On (“LastPass MFA”)** leverages biometric and contextual factors to verify a user’s identity and help ensure that only the correct users are accessing the right data at the right time. LastPass MFA offers an intuitive authentication experience that can be deployed across cloud and legacy apps, VPNs, workstations, and identity providers.

**LastPass Teams** is a password management solution that gives business teams the ability to securely store, create and access the user identity and login credentials for online applications and websites.

**LastPass Premium and LastPass Families** are password managers for consumers that manage, save, fill, and share login credentials for online applications and websites.

**Central** is a web-based management console that enables IT professionals to access, manage and monitor remote computers, deploy software updates and patches, automate IT tasks and run hundreds of versions of antivirus software.

**Pro** provides secure access to a remote computer or other Internet-enabled device from any other Internet connected computer, as well as most smartphones and tablets. Once a host is installed on a device, a user can access that device’s desktop, files, applications and network resources remotely from their other Internet-enabled devices.

**GoToMyPC** enables interactive, secure remote browser-based access to any desktop application on the host computer (even those that are not Web-based) to or from any Internet-connected Mac or PC, or supported mobile device. This product is accessible via a resizable viewer, launched from a browser with an Internet connection. GoToMyPC does not require installed software or network configuration changes. Account access is protected by dual passwords and end-to-end user authentication.

COMPANY

Section 6, Item G.

RESOURCES

PRODUCTS

FOLLOW & SHARE GOTO:

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[Anti-Spam Policy](#)

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English

Give Feedback



April 5<sup>th</sup>, 2022

# City of Milton

## RFP# 23-IT01

### Pricing

The following page includes the pricing for the City of Milton with the following options:

1. Onsite support provided by Vertical Communications for the onsite setup, day of cutover, and post-cutover onsite support, normally \$25 per seat is offered to the City of Milton at a discounted price of \$0.
2. As far as GoTo onsite support: If the City of Milton requires on-site engineering, GoTo offers this service for a \$700/day rate (3-day minimum). GoTo engineers or a GoTo partner will perform these services.
3. The following quote provides 50 Yealink phones to the City of Milton at \$0 cost. Should the City of Milton wish more of these phones, they can be purchased for \$79 each, or added to the lease for 36 months at \$2.35 per month per phone (this option extends the basic 12-month warranty for the phones for the length of the lease, at which time the City of Milton can purchase these phones for \$1).  
**EXAMPLES:** If you chose 100 of the Yealink T33G phones, 50 would be free and the other 50 would be  $50 \times \$79 = \$3,950 + \text{tax}$  up front added to the \$1,648.31 listed on the following page. If, however, you chose to lease the additional 50 phones, it would be no more additional up front, but would increase the monthly by  $50 \times \$2.35 = \$117.50 + \text{tax}$  per month to the \$2,877.45 listed on the following page.
4. Other phones and rates are available should the City and/or users need more functionality.

Sincerely,



**K. Keith Drew**

*Sr. Communications Consultant*

(678) 892-8023 | [kdrew@vertical.com](mailto:kdrew@vertical.com) | [www.vertical.com](http://www.vertical.com) | [Get Support](#)

Manufacturer of Wave IP, 8x8 Certified Reseller, Top 10 Mitel Solution Provider, Ericsson-LG Tech Support Winner 2017-18, EMG Customer Satisfaction Winner 2018

*Proposal for Unified Communications Services*

City of Milton

Quote #: Q-692090  
 Service Term: 36.0 Months  
 Expiration Date: 04/01/23

Free Months: 3

TODAY'S TOTAL	QTY	MSRP	DISCOUNT	GOTO PRICE	TOTAL
Professional Services - Per Seat GTC Managed Install (Over 50 Licenses)	200	USD 50.00	USD 50.00	USD 0.00	USD 0.00
Voice Number DID Port - Configuration Fee	130	USD 5.00	USD 5.00	USD 0.00	USD 0.00
Yealink T33G SIP phone w/power supply	50	USD 119.00	USD 119.00	USD 0.00	USD 0.00
Yealink CP925 Touch-sensitive HD IP Conference Phone	5	USD 599.00	USD 293.05	USD 305.95	USD 1,529.75
ESTIMATED TAXES and FEES					USD 118.56
<b>TOTAL</b>					<b>USD 1,648.31</b>

MONTHLY TOTAL	QTY	MSRP	DISCOUNT	GOTO PRICE	TOTAL
GoToConnect Standard	200	USD 22.00	USD 9.05	USD 12.95	USD 2,590.00
Voice - Standard DID - Monthly Charge	130	USD 5.00	USD 4.75	USD 0.25	USD 32.50
Conference Device User- Monthly Service	5	USD 25.95	USD 13.00	USD 12.95	USD 64.75
ESTIMATED TAXES and FEES					USD 190.20
<b>TOTAL</b>					<b>USD 2,877.45</b>

*TODAY'S TOTAL*  
**USD 1648.31**

*MONTHLY TOTAL*  
**USD 2877.45**

**ORDER FORM AGREEMENT BETWEEN THE CITY OF MILTON AND FULTON  
COMMUNICATIONS, INC.**

**ADDENDUM NO. 1**

This Addendum supplements the Services Agreement (the “Agreement”) between **GoTo Communications, INC., DBA ”GoTo”**, a Delaware corporation with principal office located at 333 Summer Street, Boston, MA 02210 (“Service Provider”) and the **CITY OF MILTON**, a political subdivision of the State of Georgia (“Customer”), of even date herewith, to add the following provisions thereto:

**1. Conflicting Provisions.**

This Addendum is attached to and is a part of the Agreement described above. The provisions of this Addendum control over any contrary provisions found in the Agreement. No provision of the Agreement shall operate to override the provisions of this Addendum.

**2. Statutory Auto-Termination and Renewal.**

The term of this Agreement shall commence as of the date both Parties have last signed both the Agreement and this Addendum (“Effective Date”), and the Agreement shall terminate two (2) years following the Effective Date (“Term”) (provided that certain obligations will survive termination/expiration of this Agreement). If the Term of this Agreement is longer than one year, the Parties agree that this Agreement, as required by O.C.G.A. § 36-60-13, shall terminate absolutely and without further obligation on the part of the Customer on December 31<sup>st</sup> of each year of the Term, and further, that this Agreement shall automatically renew on January 1st of each subsequent year absent the Customer’s provision of written notice of non-renewal to Service Provider at least ninety (90) days prior to the end of the then year. Title to any supplies, materials, equipment, or other personal property shall remain in Service Provider until fully paid for by the Customer.

**3. Sovereign Immunity; Indemnification.**

Nothing contained in the Agreement shall be construed to be a waiver of Customer’s sovereign immunity or any individual’s qualified, good faith or official immunities. Any provision of the Agreement requiring the Customer to indemnify the Service Provider is only valid to the extent allowed by Georgia law. The parties hereto agree and acknowledge that the Customer is under no obligation to procure additional insurance related to the Agreement, including this Addendum.

**4. Termination**

Customer may terminate this Agreement for convenience at any time upon providing written notice thereof at least thirty (30) days in advance of the termination date provided Customer shall not be entitled to receive any refund and any fees Customer may have paid to the Service Provider are nonrefundable.

## **5. Nondiscrimination.**

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, Service Provider agrees that, during performance of this Agreement, Service Provider, for itself, its assignees and successors in interest, will not discriminate against any employee or applicant for employment, any subcontractor, or any supplier because of race, color, creed, national origin, gender, age or disability. In addition, Service Provider agrees to comply with all applicable implementing regulations and shall include the provisions of this Section in every subcontract for services contemplated under this Agreement.

## **6. Confidentiality.**

Service Provider acknowledges that Customer's disclosure of documentation is governed by Georgia's Open Records Act, and Service Provider further acknowledges that if Service Provider submits records containing trade secret information, and if Service Provider wishes to keep such records confidential, Service Provider must submit and attach to such records an affidavit affirmatively declaring that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10, and the Parties shall follow the requirements of O.C.G.A. § 50-18-72(a)(34) related thereto.

## **7. Authority to Contract.**

The individual executing the Agreement on behalf of each party covenants and declares that he/she has obtained all necessary approvals of the necessary board of directors, stockholders, board of commissioners, general partners, limited partners or similar authorities to simultaneously execute and bind the party to the terms of the Agreement.

## **8. Ethics Code; Conflict of Interest.**

Service Provider agrees that it shall not engage in any activity or conduct that would result in a violation of this code of ethics described herein this section or any other relevant and applicable law or regulation. Service Provider certifies that to the best of its knowledge no circumstances exist which will cause a conflict of interest in performing the services required by this Agreement. Service Provider and the Customer acknowledge that it is prohibited for any person to offer, give, or agree to give any City employee or official, or for any City employee or official to solicit, demand, accept, or agree to accept from another person, a gratuity of more than nominal value or rebate or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor. The Service Provider and the Customer further acknowledge that it is prohibited for any payment, gratuity, or offer of employment to be made by or on behalf of a sub-consultant under a

contract to the prime Service Provider or higher tier sub-consultant, or any person associated therewith, as an inducement for the award of a subcontract or order.

## **9. Governing Law.**

This Agreement is governed by the laws of the State of Georgia to the extent that such laws apply to the Customer as a political subdivision of the State of Georgia and as a party to this Contract.

## **10. Employment of Unauthorized Aliens Prohibited – E-Verify Affidavit.**

Pursuant to O.C.G.A. § 13-10-91, Customer shall not enter into a contract for the physical performance of services unless Service Provider shall provide evidence on the forms attached hereto as Addendum Exhibits “A” and “B” (affidavits regarding compliance with the E-Verify program to be sworn under oath under criminal penalty of false swearing pursuant to O.C.G.A. § 16-10-71), that it and its subcontractors have registered with, are authorized to use and use the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91, and that they will continue to use the federal work authorization program throughout the contract period. Service Provider hereby verifies that it has, prior to executing this Agreement, executed a notarized affidavit, the form of which is provided in Addendum Exhibit “A”, and submitted such affidavit to Customer. Further, Service Provider hereby agrees to comply with the requirements of the federal Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, O.C.G.A. § 13-10-91 and Georgia Department of Labor Rule 300-10-1-.02.

In the event Service Provider employs or contracts with any subcontractor(s) to perform services for Customer, Service Provider agrees to secure from such subcontractor(s) attestation of the subcontractor’s compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 by the subcontractor’s execution of the subcontractor affidavit, the form of which is attached hereto as Addendum Exhibit “B”, which subcontractor affidavit shall become part of the contractor/subcontractor agreement. Service Provider agrees that the employee-number category designated below is applicable to it:

- 500 or more employees  
 100 or more employees  
 Fewer than 100 employees

Service Provider hereby agrees that, in the event Service Provider employs or contracts with any subcontractor(s) in connection with the Agreement and where the subcontractor is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, Service Provider will secure from the subcontractor(s) such subcontractor(s’) indication of the above employee-number category that is applicable to the subcontractor. If Service Provider does not employ or contract with any subcontractor(s) to perform services for Customer, the provisions of this section related to subcontractors shall not apply. The above requirements shall be in addition to the requirements of

state and federal law and shall be construed to be in conformity with those laws.

[remainder of this page intentionally left blank]

[signature page follows]

**IN WITNESS WHEREOF** Customer and Service Provider have executed this Agreement, effective as of the Effective Date first above written.

**SERVICE PROVIDER:**

**GOTO COMMUNICATIONS, INC.**

By: DocuSigned by:  
Bergen, Claire  
636A5DA36AED4D2...

[CORPORATE SEAL]

**ATTEST:**

By: Bergen, Claire  
Print Name: Deputy General Counsel  
Title: July 28, 2023

**CITY OF MILTON, GEORGIA**

By: Peyton Jamison, Mayor

[CITY SEAL]

**Attest:**

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: City Clerk

**Approved as to form:**

DocuSigned by:  
Jennifer McCall 8/10/2023  
8433E81E7AF148A...  
City Attorney Date

**EXHIBIT A**

**STATE OF GEORGIA  
COUNTY OF FULTON**

**CONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services on behalf of the **CITY OF MILTON** has registered with, is authorized to use, and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period, and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b).

Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

1171969  
Federal Work Authorization User Identification Number

2/28/2017  
Date of Authorization

**GoTo Communications, Inc.** (Formerly known as "LogMeIn")  
Name of Contractor

**Vertical Communications Installation**  
Name of Project

**City of Milton**  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on July 28, 2023 in Boston (city), MA (state).

Bergen, Claire  
Signature of Authorized Officer or Agent

Bergen, Claire Deputy General Counsel  
Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE 28<sup>th</sup> DAY OF July, 2023

[Signature]  
Notary Public

[NOTARY SEAL]

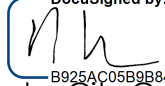
My Commission Expires:  
5 OCTOBER 2023





**STAFF MEMO:**  
**FINANCIAL**

**TO:** Honorable Mayor and City Council Members  
**FROM:** Robert Buscemi, Community Development Director  
**DATE:** Submitted on August 10, 2023 for the August 21, 2023, Regular City Council Meeting  
**AGENDA ITEM:** Approval of Professional Service Agreement between the City of Milton and William F. Ross dba Ross+ Associates for the Preparation of the Impact Fee Program Amendment

DocuSigned by:  
  
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**PROJECT DESCRIPTION**

The City has engaged with Ross+ Associates for the preparation of a thorough update and amendment to the City's Impact Fee Program which will include preparation of the following components: (1) Methodology Report, (2) amended Capital Improvement Element (CIE), (3) revised schedule of impact fees, and (4) review of the Impact Fee Ordinance to assure conformance to current State law.


Background: The City adopted its first Impact Fee Program in 2015 and since then, many of the capital projects outlined in its CIE have already been accomplished. With Milton projecting to continue its previous rate of growth over the coming years, the City will need to update and amend the existing Methodology Report to reflect these forecasts for population, housing units, and employment. This aids in accurately calculating the impact fee structure and ensures that new development pays its fair share of the costs of public facilities. Further, the report also determines the City's investment in parks and recreation facilities, fire protection services, law enforcement, and road projects and identifies any needs for new facilities. This would include a compilation of the capital facilities where impact fee revenue can be spent, and the impact fee costs for specific public facilities. Funding source for this project will come from the impact fee administration account.

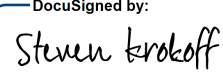
**PROCUREMENT SUMMARY**

**Purchasing method used:** Professional Services  
**Account Number:** 350-7410-521200000  
**Requisition Total:** \$48,700.00

**REVIEW & APPROVALS**

**Financial Review:** Karen Ellis, Finance Director – August 14, 2023  
**Legal Review:** Jennifer McCall, Jarrard & Davis, LLP – August 10, 2023  
**Concurrent Review:** Steven Krokoff, City Manager  
**Attachment(s):** Professional Services Agreement

DocuSigned by:  
  
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DocuSigned by:  
  
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SERVICE • TEAMWORK • OWNERSHIP • LEADERSHIP • RURAL HERITAGE

2006 Heritage Walk, Milton, GA 30004 | 678.242.2500 | facebook.com/thecityofmiltonga | info@miltonga.gov | www.miltonga.gov





**PROFESSIONAL SERVICES AGREEMENT  
Impact Fee Program Amendment**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”), by and between the **CITY OF MILTON, GEORGIA**, a municipal corporation of the State of Georgia, acting by and through its governing authority, the Mayor and City Council (hereinafter referred to as the “City”), and **William F. Ross (d/b/a Ross+associates)**, a Georgia Sole Proprietorship, (herein after referred to as the "Consultant"), collectively referred to herein as the "Parties."

**WITNESSETH:**

**WHEREAS**, City desires to retain Consultant to provide certain services in the completion of a Project (defined below); and

**WHEREAS**, City finds that specialized knowledge, skills, and training are necessary to perform the Work (defined below) contemplated under this Agreement; and

**WHEREAS**, Consultant has represented that it is qualified by training and experience to perform the Work; and

**WHEREAS**, Consultant desires to perform the Work as set forth in this Agreement under the terms and conditions provided in this Agreement; and

**WHEREAS**, the public interest will be served by this Agreement; and

**WHEREAS**, Consultant has familiarized itself with the nature and extent of the Agreement, the Project, and the Work, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that may in any manner affect cost, progress or performance of Work.

**NOW, THEREFORE**, for and in consideration of the mutual promises, the public purposes, and the acknowledgements and agreements contained herein, and other good and adequate consideration, the sufficiency of which is hereby acknowledged, the Parties do mutually agree as follows:

**I. SCOPE OF SERVICES AND TERMINATION DATE**

**A. Agreement.** The Agreement shall consist of this Professional Services Agreement and each of the Exhibits hereto, which are incorporated herein by reference, including:

- Exhibit “A”** – RESERVED
- Exhibit “B”** – Consultant Proposal
- Exhibit “C”** – RESERVED
- Exhibit “D”** – Contractor Affidavit
- Exhibit “E”** – Subcontractor Affidavit
- Exhibit “F”** – Key Personnel

**B. Project Description.** The “Project” at issue in this Agreement is generally described as: provide professional services required to complete update of the original Impact Fee Methodology Report of 2015 with up-to-date fee calculations, and amended Capital Improvements Element, as well as the preparation of a revised impact fee schedule for the City meeting all legal and administrative requirements.

**C. The Work.** The Work to be completed under this Agreement (the “Work”) includes, but shall not be limited to, the work described in the Scope of Work provided in **Exhibit “C”**, attached hereto and incorporated herein by reference. Unless otherwise stated in **Exhibit “C”**, the Work includes all material, labor, insurance, tools, equipment, machinery, water, heat, utilities, transportation, facilities, services and any other miscellaneous items and work necessary to complete the Work. Some details necessary for proper execution and completion of the Work may not be specifically described in the Scope of Work, but they are a requirement of the Work if they are a usual and customary component of the contemplated services or are otherwise necessary for proper completion of the Work.

**D. Schedule, Completion Date, and Term of Agreement.** Consultant understands that time is of the essence of this Agreement and warrants and represents that it will perform the Work in a prompt and timely manner, which shall not impose delays on the progress of the Work. The term of this Agreement (“Term”) shall commence as of the Effective Date, the Agreement shall terminate upon completion of and payment for all Work (provided that certain obligations will survive termination/expiration of this Agreement) on July 31, 2024. If the Term of this Agreement is longer than one year, the Parties agree that this Agreement, as required by O.C.G.A. § 36-60-13, shall terminate absolutely and without further obligation on the part of City on September 30 each fiscal year of the Term, and further, that this Agreement shall automatically renew on October 1 of each subsequent fiscal year until conclusion of the Term, absent City’s provision of written notice of non-renewal to Consultant at least five (5) days prior to the end of the then current fiscal year. Title to any supplies, materials, equipment, or other personal property shall remain in Consultant until fully paid for by City.

**II. WORK CHANGES**

**A. Change Order Defined.** A “Change Order” means a written modification of the Agreement, signed by representatives of City and Consultant with appropriate authorization.

**B. Right to Order Changes.** City reserves the right to order changes in the Work to be performed under this Agreement by altering, adding to, or deducting from the Work. All such changes shall be incorporated in written Change Orders and executed by Consultant and City. Such Change Orders shall specify the changes ordered and any necessary adjustment of compensation and completion time. If the Parties cannot reach an agreement on the terms for performing the changed work within a reasonable time to avoid delay or other unfavorable impacts as determined by City in its sole discretion, City shall have the right to determine reasonable terms, and Consultant shall proceed with the changed work.

**C. Change Order Requirement.** Any work added to the scope of this Agreement by a Change Order shall be executed under all the applicable conditions of this Agreement. No claim for additional compensation or extension of time shall be recognized, unless contained in a written Change Order duly executed on behalf of City and Consultant.

**D. Authority to Execute Change Order.** The City Manager has authority to execute, without further action of the Mayor or City Council, any number of Change Orders so long as their total effect does not materially alter the terms of this Agreement or materially increase the Maximum Contract Price, as set forth in Section III(B) below. Any such Change Orders materially altering the terms of this Agreement, or any Change Order affecting the price where the Maximum Contract Price (as amended) is in excess of \$50,000, must be approved by resolution of the Mayor and City Council. Amendments shall not result in a variance in price exceeding ten percent of the original contract amount.

### III. COMPENSATION AND METHOD OF PAYMENT

**A. Payment Terms.** City agrees to pay Consultant for the Work performed and costs incurred by Consultant upon certification by City that the Work was actually performed and costs actually incurred in accordance with the Agreement. Compensation for Work performed and, if applicable, reimbursement for costs incurred shall be paid to Consultant upon City's receipt and approval of invoices, setting forth in detail the services performed and costs incurred, along with all supporting documents requested by City to process the invoice. Invoices shall be submitted on a monthly basis or as each phase is completed. Any material deviations in tests or inspections performed, or times or locations required to complete such tests or inspections, and like deviations from the Work described in this Agreement shall be clearly communicated to City *before charges are incurred* and shall be handled through Change Orders as described in Section II above. City shall pay Consultant within thirty (30) days after approval of the invoice by City staff.

**B. Maximum Contract Price.** The total amount paid under this Agreement as compensation for Work performed and reimbursement for costs incurred shall not, in any case, exceed FORTY-EIGHT THOUSAND, SEVEN HUNDRED AND 00/100 DOLLARS (\$48,700.00) (the "Maximum Contract Price") for Tasks 1-13, except as outlined in Section II(C) above, and Consultant represents that this amount is sufficient to perform all of the Work set forth in and contemplated by this Agreement. Any additional services requested by the City under Task 14 would be compensated based upon an hourly rate and travel time as mutually agreed by both Parties.

C. **Reimbursement for Costs.** The Maximum Contract Price set forth in Section III(B) above includes all costs, direct and indirect, needed to perform the Work and complete the Project, and reimbursement for costs incurred shall be limited as follows:

There shall be no reimbursement for costs.

#### IV. COVENANTS OF CONSULTANT

A. **Expertise of Consultant; Licenses, Certification and Permits.** Consultant accepts the relationship of trust and confidence established between it and City, recognizing that City's intention and purpose in entering into this Agreement is to engage an entity with the requisite capacity, experience, and professional skill and judgment to provide the Work in pursuit of the timely and competent completion of the Work undertaken by Consultant under this Agreement. Consultant shall employ only persons duly qualified in the appropriate area of expertise to perform the Work described in this Agreement.

Consultant covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of Consultant by any and all national, state, regional, county, or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Work contracted for under this Agreement. Further, Consultant agrees that it will perform all Work in accordance with the standard of care and quality ordinarily expected of competent professionals and in compliance with all federal, state, and local laws, regulations, codes, ordinances, or orders applicable to the Project, including, but not limited to, any applicable records retention requirements and Georgia's Open Records Act (O.C.G.A. § 50-18-71, *et seq.*). Any additional work or costs incurred as a result of error and/or omission by Consultant as a result of not meeting the applicable standard of care or quality will be provided by Consultant at no additional cost to City. This provision shall survive termination of this Agreement.

B. **Budgetary Limitations.** Consultant agrees and acknowledges that budgetary limitations are not a justification for breach of sound principals of Consultant's profession and industry. Consultant shall take no calculated risk in the performance of the Work. Specifically, Consultant agrees that, in the event it cannot perform the Work within the budgetary limitations established without disregarding sound principles of Consultant's profession and industry, Consultant will give written notice immediately to City.

C. **City's Reliance on the Work.** Consultant acknowledges and agrees that City does not undertake to approve or pass upon matters of expertise of Consultant and that, therefore, City bears no responsibility for Consultant's Work performed under this Agreement. Consultant acknowledges and agrees that the acceptance of Work by City is limited to the function of determining whether there has been compliance with what is required to be produced under this Agreement. City will not, and need not, inquire into adequacy, fitness, suitability or correctness of Consultant's performance. Consultant further agrees that no approval of designs, plans, specifications or other work product by any person, body or agency shall relieve Consultant of the responsibility for adequacy, fitness, suitability, and correctness of Consultant's Work under professional and industry standards, or for performing services under this Agreement in

accordance with sound and accepted professional and industry principles.

**D. Consultant's Reliance on Submissions by City.** Consultant must have timely information and input from City in order to perform the Work required under this Agreement. Consultant is entitled to rely upon information provided by City, but Consultant shall provide immediate written notice to City if Consultant knows or reasonably should know that any information provided by City is erroneous, inconsistent, or otherwise problematic.

**E. Consultant's Representative.** William F. (Bill) Ross shall be authorized to act on Consultant's behalf with respect to the Work as Consultant's designated representative, provided that this designation shall not relieve either Party of any written notice requirements set forth elsewhere in this Agreement.

**F. Assignment of Agreement.** Consultant covenants and agrees not to assign or transfer any interest in, or delegate any duties of this Agreement, without the prior express written consent of City. As to any approved subcontractors, Consultant shall be solely responsible for reimbursing them, and City shall have no obligation to them.

**G. Responsibility of Consultant and Indemnification of City.** Consultant covenants and agrees to take and assume all responsibility for the Work rendered in connection with this Agreement. Consultant shall bear all losses and damages directly or indirectly resulting to it and/or City on account of the performance or character of the Work rendered pursuant to this Agreement. Consultant shall defend, indemnify and hold harmless City and City's elected and appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers (individually an "Indemnified Party" and collectively "Indemnified Parties") from and against any and all claims, suits, actions, judgments, injuries, damages, losses, costs, expenses and liability of any kind whatsoever, including but not limited to attorney's fees and costs of defense ("Liabilities"), which may arise from or be the result of an alleged willful, negligent or tortious act or omission arising out of the Work, performance of contracted services, or operations by Consultant, any subcontractor, anyone directly or indirectly employed by Consultant or subcontractor or anyone for whose acts or omissions Consultant or subcontractor may be liable, regardless of whether or not the act or omission is caused in part by a party indemnified hereunder; provided that this indemnity obligation shall only apply to the extent Liabilities are caused by or result from the negligence, recklessness, or intentionally wrongful conduct of the Consultant or other persons employed or utilized by the Consultant in the performance of this Agreement. This indemnity obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this provision.

In any and all claims against an Indemnified Party, by any employee of Consultant, its subcontractor, anyone directly or indirectly employed by Consultant or subcontractor or anyone for whose acts Consultant or subcontractor may be liable, the indemnification obligation set forth in this provision shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Consultant or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. This obligation to indemnify, defend, and hold harmless the Indemnified Party(ies) shall survive

expiration or termination of this Agreement, provided that the claims are based upon or arise out of actions or omissions that occurred during the performance of this Agreement.

**H. Independent Contractor.** Consultant hereby covenants and declares that it is engaged in an independent business and agrees to perform the Work as an independent contractor and not as the agent or employee of City. Nothing in this Agreement shall be construed to make Consultant or any of its employees, servants, or subcontractors, an employee, servant or agent of City for any purpose. Consultant agrees to be solely responsible for its own matters relating to the time and place the Work is performed and the method used to perform such Work; the instrumentalities, tools, supplies and/or materials necessary to complete the Work; hiring of consultants, agents or employees to complete the Work; and the payment of employees, including benefits and compliance with Social Security, withholding and all other regulations governing such matters. Consultant agrees to be solely responsible for its own acts and those of its subordinates, employees, and subcontractors during the life of this Agreement. There shall be no contractual relationship between any subcontractor or supplier and City by virtue of this Agreement with Consultant. Any provisions of this Agreement that may appear to give City the right to direct Consultant as to the details of the services to be performed by Consultant or to exercise a measure of control over such services will be deemed to mean that Consultant shall follow the directions of City with regard to the results of such services only. It is further understood that this Agreement is not exclusive, and City may hire additional entities to perform the Work related to this Agreement.

Inasmuch as City and Consultant are independent of each other, neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both Parties hereto. Consultant agrees not to represent itself as City's agent for any purpose to any party or to allow any employee of Consultant to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. Consultant shall assume full liability for any contracts or agreements Consultant enters into on behalf of City without the express knowledge and prior written consent of City.

**I. Insurance.**

- (1) Requirements: Consultant shall have and maintain in full force and effect for the duration of this Agreement, insurance insuring against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work by Consultant, its agents, representatives, employees or subcontractors. All policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager.
- (2) Minimum Limits of Insurance: Consultant shall maintain the following insurance policies with coverage and limits no less than:
  - (a) Commercial General Liability coverage of at least \$1,000,000 (one million dollars) combined single limit per occurrence and

\$2,000,000 (two million dollars) aggregate for comprehensive coverage including for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.

- (b) Commercial Automobile Liability (owned, non-owned, hired) coverage of at least \$1,000,000 (one million dollars) combined single limit per occurrence for comprehensive coverage including bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.
  - (c) Professional Liability of at least \$1,000,000 (one million dollars) limit for claims arising out of professional services and caused by Consultant's errors, omissions, or negligent acts.
  - (d) Workers' Compensation: Consultant represents and warrants that Georgia law does not require workers' compensation insurance coverage for the individuals performing Work under this Agreement.
  - (e) Commercial Umbrella Liability Coverage: \$  
  n/a   (                      ) per occurrence shall be provided and will apply over all liability policies, without exception, including but not limited to Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and Professional Liability.
- (3) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by City in writing so that City may ensure the financial solvency of Consultant; self-insured retentions should be included on the certificate of insurance.
- (4) Other Insurance Provisions: Each policy shall contain, or be endorsed to contain, the following provisions respectively:
- (a) General Liability, Automobile Liability and (if applicable) Umbrella Liability Coverage.
    - (i) Additional Insured Requirement. City and City's elected and appointed officials, officers, boards, commissioners, employees, representatives, consultants, servants, agents and volunteers (individually "Insured Party" and collectively "Insured Parties") shall be named as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, leased, or used by Consultant;



automobiles owned, leased, hired, or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Insured Parties. Nothing contained in this section shall be construed to require the Consultant to provide liability insurance coverage to any Insured Party for claims asserted against such Insured Party for its sole negligence.

- (ii) **Primary Insurance Requirement.** Consultant's insurance coverage shall be primary noncontributing insurance as respects to any other insurance or self-insurance available to the Insured Parties. Any insurance or self-insurance maintained by the Insured Parties shall be in excess of Consultant's insurance and shall not contribute with it.
  - (iii) **Reporting Requirement.** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Insured Parties.
  - (iv) **Separate Coverage.** Coverage shall state that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to limits of insurance provided.
  - (v) **Defense Costs/Cross Liability.** Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross-liability exclusion.
  - (vi) **Subrogation.** The insurer shall agree to waive all rights of subrogation against the Insured Parties for losses arising from Work performed by Consultant for City.
- (b) Workers' Compensation Coverage. n/a
- (c) All Coverages.
- (i) **Notice Requirement.** Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, or canceled except after thirty (30) calendar days prior written notice (or 10 calendar days if due to non-payment) has been given to City. City reserves the right to accept alternate notice terms and provisions, provided they meet the minimum requirements under Georgia law.

- (ii) **Starting and Ending Dates.** Policies shall have concurrent starting and ending dates.
  - (iii) **Incorporation of Indemnification Obligations.** Policies shall include an endorsement incorporating the indemnification obligations assumed by Consultant under the terms of this Agreement, including but not limited to Section IV(G) of this Agreement.
- (5) **Acceptability of Insurers:** The insurance to be maintained by Consultant must be issued by a company licensed or approved by the Insurance Commissioner to transact business in the State of Georgia. Such insurance policies shall be placed with insurer(s) with an A.M. Best Policyholder's rate of no less than "A-" and with a financial rating of Class VII or greater. The Consultant shall be responsible for any delay resulting from the failure of its insurer to provide proof of coverage in the proscribed form.
- (6) **Verification of Coverage:** Consultant shall furnish to City for City approval certificates of insurance and endorsements to the policies evidencing all coverage required by this Agreement prior to the start of work. Without limiting the general scope of this requirement, Consultant is specifically required to provide an endorsement naming City as an additional insured when required. The certificates of insurance and endorsements for each insurance policy are to be on a form utilized by Consultant's insurer in its normal course of business and are to be signed by a person authorized by that insurer to bind coverage on its behalf, unless alternate sufficient evidence of their validity and incorporation into the policy is provided. City reserves the right to require complete, certified copies of all required insurance policies at any time. Consultant shall provide proof that any expiring coverage has been renewed or replaced prior to the expiration of the coverage.
- (7) **Subcontractors:** Consultant shall either (1) ensure that its insurance policies (as described herein) cover all subcontractors and the Work performed by such subcontractors or (2) ensure that any subcontractor secures separate policies covering that subcontractor and its Work. All coverage for subcontractors shall be subject to all of the requirements stated in this Agreement, including, but not limited to, naming the Insured Parties as additional insureds.
- (8) **Claims-Made Policies:** Consultant shall extend any claims-made insurance policy for at least six (6) years after termination or final payment under the Agreement, whichever is later, and have an effective date which is on or prior to the Effective Date.
- (9) **City as Additional Insured and Loss Payee:** City shall be named as an

additional insured and loss payee on all policies required by this Agreement, except City need not be named as an additional insured and loss payee on any Professional Liability policy or Workers' Compensation policy (if any).

- (10) Progress Payments: The making of progress payments to Consultant shall not be construed as relieving Consultant or its subcontractors or insurance carriers from providing the coverage required in this Agreement.

**J. Employment of Unauthorized Aliens Prohibited – E-Verify Affidavit.** Pursuant to O.C.G.A. § 13-10-91, City shall not enter into a contract for the physical performance of services unless:

- (1) Consultant shall provide evidence on City-provided forms, attached hereto as **Exhibits “D” and “E”** (affidavits regarding compliance with the E-Verify program to be sworn under oath under criminal penalty of false swearing pursuant to O.C.G.A. § 16-10-71), that it and Consultant's subcontractors have registered with, are authorized to use and use the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91, and that they will continue to use the federal work authorization program throughout the contract period, **or**
- (2) Consultant provides evidence that it is not required to provide an affidavit because it is an *individual* (not a company) licensed pursuant to Title 26 or Title 43 or by the State Bar of Georgia and is in good standing.

Consultant hereby verifies that it has, prior to executing this Agreement, executed a notarized affidavit, the form of which is provided in **Exhibit “D”**, and submitted such affidavit to City or provided City with evidence that it is an individual not required to provide such an affidavit because it is licensed and in good standing as noted in sub-subsection (2) above. Further, Consultant hereby agrees to comply with the requirements of the federal Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, O.C.G.A. § 13-10-91 and Georgia Department of Labor Rule 300-10-1-.02.

In the event Consultant employs or contracts with any subcontractor(s) in connection with the covered contract, Consultant agrees to secure from such subcontractor(s) attestation of the subcontractor's compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 by the subcontractor's execution of the subcontractor affidavit, the form of which is attached hereto as **Exhibit “E”**, which subcontractor affidavit shall become part of the Consultant/subcontractor agreement, or evidence that the subcontractor is not required to provide such an affidavit because it is an *individual* licensed and in good standing as noted in sub-subsection (2) above. If a subcontractor affidavit is obtained, Consultant agrees to provide a completed copy to City within five (5) business days of receipt from any subcontractor.

Where Consultant is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the City Manager or his/her designee shall be authorized to conduct an inspection of Consultant’s and Consultant’s subcontractors’ verification process at any time to determine that the verification was correct and complete. Consultant and Consultant’s subcontractors shall retain all documents and records of their respective verification process for a period of five (5) years following completion of the contract. Further, where Consultant is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the City Manager or his/her designee shall further be authorized to conduct periodic inspections to ensure that no City Consultant or Consultant’s subcontractors employ unauthorized aliens on City contracts. By entering into a contract with City, Consultant and Consultant’s subcontractors agree to cooperate with any such investigation by making their records and personnel available upon reasonable notice for inspection and questioning. Where Consultant or Consultant’s subcontractors are found to have employed an unauthorized alien, the City Manager or his/her designee may report same to the Department of Homeland Security. Consultant’s failure to cooperate with the investigation may be sanctioned by termination of the Agreement, and Consultant shall be liable for all damages and delays occasioned by City thereby.

Consultant agrees that the employee-number category designated below is applicable to Consultant. [Information only required if a contractor affidavit is required pursuant to O.C.G.A. § 13-10-91.]

\_\_\_\_\_ 500 or more employees.

\_\_\_\_\_ 100 or more employees.

  x   Fewer than 100 employees.

Consultant hereby agrees that, in the event Consultant employs or contracts with any subcontractor(s) in connection with this Agreement and where the subcontractor is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, Consultant will secure from the subcontractor(s) such subcontractor(s’) indication of the above employee-number category that is applicable to the subcontractor.

The above requirements shall be in addition to the requirements of state and federal law, and shall be construed to be in conformity with those laws.

**K. Records, Reports and Audits.**

(1) Records:

- (a) Books, records, documents, account ledgers, data bases, and similar materials relating to the Work performed for City under this Agreement (“Records”) shall be established and maintained by Consultant in accordance with applicable law and requirements prescribed by City with respect to all matters covered by this Agreement. Except as otherwise authorized or required, such Records shall be maintained for at least three (3) years from the date

that final payment is made to Consultant by City under this Agreement. Furthermore, Records that are the subject of audit findings shall be retained for three (3) years or until such audit findings have been resolved, whichever is later.

- (b) All costs claimed or anticipated to be incurred in the performance of this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.
- (2) Reports and Information: Upon request, Consultant shall furnish to City any and all Records in the form requested by City. All Records provided electronically must be in a format compatible with City's computer systems and software.
  - (3) Audits and Inspections: At any time during normal business hours and as often as City may deem necessary, Consultant shall make available to City or City's representative(s) for examination all Records. Consultant will permit City or City's representative(s) to audit, examine, and make excerpts or transcripts from such Records. Consultant shall provide proper facilities for City or City's representative(s) to access and inspect the Records, or, at the request of City, shall make the Records available for inspection at City's office. Further, Consultant shall permit City or City's representative(s) to observe and inspect any or all of Consultant's facilities and activities during normal hours of business for the purpose of evaluating Consultant's compliance with the terms of this Agreement. In such instances, City or City's representative(s) shall not interfere with or disrupt such activities.

**L. Ethics Code; Conflict of Interest.** Consultant agrees that it shall not engage in any activity or conduct that would result in a violation of the City of Milton Code of Ethics or any other similar law or regulation. Consultant certifies that to the best of its knowledge no circumstances exist which will cause a conflict of interest in performing the Work. Should Consultant become aware of any circumstances that may cause a conflict of interest during the Term of this Agreement, Consultant shall immediately notify City. If City determines that a conflict of interest exists, City may require that Consultant take action to remedy the conflict of interest or terminate the Agreement without liability. City shall have the right to recover any fees paid for services rendered by Consultant when such services were performed while a conflict of interest existed if Consultant had knowledge of the conflict of interest and did not notify City within five (5) business days of becoming aware of the existence of the conflict of interest.

Consultant and City acknowledge that it is prohibited for any person to offer, give, or agree to give any City employee or official, or for any City employee or official to solicit, demand, accept, or agree to accept from another person, a gratuity of more than nominal value or rebate or

an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor. Consultant and City further acknowledge that it is prohibited for any payment, gratuity, or offer of employment to be made by or on behalf of a sub-consultant under a contract to the prime Consultant or higher tier sub-consultant, or any person associated therewith, as an inducement for the award of a subcontract or order.

**M. Confidentiality.** Consultant acknowledges that it may receive confidential information of City and that it will protect the confidentiality of any such confidential information and will require any of its subcontractors, consultants, and/or staff to likewise protect such confidential information. Consultant agrees that confidential information it learns or receives or such reports, information, opinions or conclusions that Consultant creates under this Agreement shall not be made available to, or discussed with, any individual or organization, including the news media, without prior written approval of City. Consultant shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City information whether specifically deemed confidential or not.

Consultant acknowledges that City's disclosure of documentation is governed by Georgia's Open Records Act, and Consultant further acknowledges that if Consultant submits records containing trade secret information, and if Consultant wishes to keep such records confidential, Consultant must submit and attach to such records an affidavit affirmatively declaring that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10, and the Parties shall follow the requirements of O.C.G.A. § 50-18-72(a)(34) related thereto.

**N. Key Personnel.** All of the individuals identified in **Exhibit "F"**, attached hereto, are necessary for the successful completion of the Work due to their unique expertise and depth and breadth of experience. There shall be no change in Consultant's Project Manager or members of the Project team, as listed in **Exhibit "F"**, without written approval of City. Consultant recognizes that the composition of this team was instrumental in City's decision to award the Work to Consultant and that compelling reasons for substituting these individuals must be demonstrated for City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this paragraph shall constitute a material breach of Consultant's obligations under this Agreement and shall be grounds for termination.

**O. Meetings.** Consultant is required to meet with City's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the Term of this Agreement at no additional cost to City. Meetings will occur as problems arise and will be coordinated by City. City shall inform Consultant's Representative of the need for a meeting and of the date, time and location of the meeting at least three (3) full business days prior to the date of the meeting. Face-to-face meetings are desired. However, at Consultant's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem

resolution meetings, two consecutive missed or rescheduled meetings, or failure to make a good faith effort to resolve problems, may result in termination of this Agreement for cause.

**P. Authority to Contract.** The individual executing this Agreement on behalf of Consultant covenants and declares that it has obtained all necessary approvals of Consultant's board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Consultant to the terms of this Agreement, if applicable.

**Q. Ownership of Work.** All reports, designs, drawings, plans, specifications, schedules, work product and other materials, including, but not limited to, those in electronic form, prepared or in the process of being prepared for the Work to be performed by Consultant ("Materials") shall be the property of City, and City shall be entitled to full access and copies of all Materials in the form prescribed by City. Any Materials remaining in the hands of Consultant or subcontractor upon completion or termination of the Work shall be delivered immediately to City whether or not the Project or Work is commenced or completed; provided, however, that Consultant may retain a copy of any deliverables for its records. Consultant assumes all risk of loss, damage or destruction of or to Materials. If any Materials are lost, damaged or destroyed before final delivery to City, Consultant shall replace them at its own expense. Any and all copyrightable subject matter in all Materials is hereby assigned to City, and Consultant agrees to execute any additional documents that may be necessary to evidence such assignment.

**R. Nondiscrimination.** In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, Consultant agrees that, during performance of this Agreement, Consultant, for itself, its assignees and successors in interest, will not discriminate against any employee or applicant for employment, any subcontractor, or any supplier because of race, color, creed or belief, political affiliation, national origin, gender, age or disability. In addition, Consultant agrees to comply with all applicable implementing regulations and shall include the provisions of this paragraph in every subcontract for services contemplated under this Agreement.

**S. Consultants Assisting with Procurement.** As required by O.C.G.A. § 36-80-28, if the Agreement requires the Consultant to prepare, develop, or draft specifications or requirements for a solicitation (including bids, requests for proposals, procurement orders, or purchase orders) or to serve in a consultative role during a bid or proposal evaluation or negotiation process: (a) the Consultant shall avoid any appearance of impropriety and shall follow all ethics and conflict-of-interest policies and procedures of the City; (b) the Consultant shall immediately disclose to the City any material transaction or relationship, including, but not limited to, that of the Consultant, the Consultant's employees, or the Consultant's agents or subsidiaries, that reasonably could be expected to give rise to a conflict of interest, including, but not limited to, past, present, or known prospective engagements, involvement in litigation or other dispute, client relationships, or other business or financial interest, and shall immediately disclose any material transaction or relationship subsequently discovered during the pendency of the Agreement; and (c) the Consultant agrees and acknowledges that any violation or threatened violation of this

paragraph may cause irreparable injury to the City, entitling the City to seek injunctive relief in addition to all other legal remedies.

## V. COVENANTS OF CITY

**A. Right of Entry.** City shall provide for right of entry for Consultant and all necessary equipment as required for Consultant to complete the Work; provided that Consultant shall not unreasonably encumber the Project site(s) with materials or equipment.

**B. City's Representative.** Robert Buscemi shall be authorized to act on City's behalf with respect to the Work as City's designated representative on this Project; provided that any changes to the Work or the terms of this Agreement must be approved as provided in Section II above.

## VI. TERMINATION

**A. For Convenience.** City may terminate this Agreement for convenience at any time upon providing written notice thereof at least seven (7) calendar days in advance of the termination date.

**B. For Cause.** Consultant shall have no right to terminate this Agreement prior to completion of the Work, except in the event of City's failure to pay Consultant within thirty (30) calendar days of Consultant providing City with notice of a delinquent payment and an opportunity to cure. In the event of Consultant's breach or default under this Agreement, City may terminate this Agreement for cause. City shall give Consultant at least seven (7) calendar days' written notice of its intent to terminate the Agreement for cause and the reasons therefor. If Consultant fails to cure the breach or default within that seven (7) day period, or otherwise remedy the breach or default to the reasonable satisfaction of City, then City may, at its election: (a) in writing terminate the Agreement in whole or in part; (b) cure such default itself and charge Consultant for the costs of curing the default against any sums due or which become due to Consultant under this Agreement; and/or (c) pursue any other remedy then available, at law or in equity, to City for such default.

**C. Statutory Termination.** In compliance with O.C.G.A. § 36-60-13, this Agreement shall be deemed terminated as provided in I(D) of this Agreement. Further, this Agreement shall terminate immediately and absolutely at such time as appropriated or otherwise unobligated funds are no longer available to satisfy the obligation of City.

**D. Payment Upon Termination.** Upon termination, City shall provide for payment to Consultant for services rendered and, where authorized, expenses incurred prior to the termination date; provided that, where this Agreement is terminated for cause, City may deduct from such payment any portion of the cost for City to complete (or hire someone to complete) the Work, as determined at the time of termination, not otherwise covered by the remaining unpaid Maximum Contract Price.

**E. Conversion to Termination for Convenience.** If City terminates this Agreement



for cause and it is later determined that City did not have grounds to do so, the termination will be converted to and treated as a termination for convenience under the terms of Section VI(A) above.

**F. Requirements Upon Termination.** Upon termination, Consultant shall: (1) promptly discontinue all services, cancel as many outstanding obligations as possible, and not incur any new obligations, unless the City directs otherwise; and (2) promptly deliver to City all data, drawings, reports, summaries, and such other information and materials as may have been generated or used by Consultant in performing this Agreement, whether completed or in process, in the form specified by City.

**G. Reservation of Rights and Remedies.** The rights and remedies of City and Consultant provided in this Article are in addition to any other rights and remedies provided under this Agreement or at law or in equity.

## VII. MISCELLANEOUS

**A. Entire Agreement.** This Agreement, including any exhibits hereto, constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Agreement not contained in this Agreement shall be valid or binding. This Agreement may be modified or amended only by a written Change Order (as provided in Section II above) or other document signed by representatives of both Parties with appropriate authorization.

**B. Successors and Assigns.** Subject to the provision of this Agreement regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties.

**C. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia without regard to choice of law principles. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the rules, regulations, statutes and laws of the State of Georgia will control. Any action or suit related to this Agreement shall be brought in the Superior Court of Fulton County, Georgia, or the U.S. District Court for the Northern District of Georgia – Atlanta Division, and Consultant submits to the jurisdiction and venue of such court.

**D. Captions and Severability.** All headings herein are intended for convenience and ease of reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Agreement, or in any way affect this Agreement. Should any article(s) or section(s) of this Agreement, or any part thereof, later be deemed illegal, invalid or unenforceable by a court of competent jurisdiction, the offending portion of the Agreement should be severed, and the remainder of this Agreement shall remain in full force and effect to the extent possible as if this Agreement had been executed with the invalid portion hereof eliminated, it being the intention of the Parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions that may for any reason be hereafter declared in valid.

**E. Business License.** Prior to commencement of the Work to be provided hereunder, Consultant shall apply to City for a business license, pay the applicable business license fee, and maintain said business license during the Term of this Agreement, unless Consultant provides evidence that no such license is required.

**F. Notices.**

(1) **Communications Relating to Day-to-Day Activities.** All communications relating to the day-to-day activities of the Work shall be exchanged between City’s Representative (named above) for City and Consultant’s Representative (named above) for Consultant.

(2) **Official Notices.** All other notices, requests, demands, writings, or correspondence, as required by this Agreement, shall be in writing and shall be deemed received, and shall be effective, when: (1) personally delivered, or (2) on the third day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (3) upon actual delivery when sent via national overnight commercial carrier to the Party at the address given below, or at a substitute address previously furnished to the other Party by written notice in accordance herewith.

**NOTICE TO CITY** shall be sent to:

Procurement Manager  
City of Milton, Georgia  
2006 Heritage Walk  
Milton, Georgia 30004

**NOTICE TO CONSULTANT** shall be sent to:

Ross+associates  
Attn: William F. (Bill) Ross  
340 North Main St  
Madison, GA 30650

**G. Waiver of Agreement.** No failure by City to enforce any right or power granted under this Agreement, or to insist upon strict compliance by Consultant with this Agreement, and no custom or practice of City at variance with the terms and conditions of this Agreement shall constitute a general waiver of any future breach or default or affect City’s right to demand exact and strict compliance by Consultant with the terms and conditions of this Agreement. Further, no express waiver shall affect any Term or condition other than the one specified in such waiver, and that one only for the time and manner specifically stated.

**H. Survival.** All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, confidentiality obligations and insurance maintenance requirements.

**I. No Third Party Rights.** This Agreement shall be exclusively for the benefit of the Parties and shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action or other right.

**J. Sovereign Immunity; Ratification.** Nothing contained in this Agreement shall be construed to be a waiver of City's sovereign immunity or any individual's qualified, good faith or official immunities. Ratification of this Agreement by a majority of the Mayor and City Council shall authorize the Mayor to execute this Agreement on behalf of City.

**K. No Personal Liability.** Nothing herein shall be construed as creating any individual or personal liability on the part of any of City's elected or appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys or volunteers. No such individual shall be personally liable to Consultant or any successor in interest in the event of any default or breach by City or for any amount which may become due to Consultant or successor or on any obligation under the terms of this Agreement. Likewise, Consultant's performance of services under this Agreement shall not subject Consultant's individual employees, officers, or directors to any personal contractual liability, except where Consultant is a sole proprietor. The Parties agree that, except where Consultant is a sole proprietor, their sole and exclusive remedy, claim, demand or suit for contractual liability shall be directed and/or asserted only against Consultant or City, respectively, and not against any elected or appointed official, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers.

**L. Counterparts; Agreement Construction and Interpretation.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Consultant represents that it has reviewed and become familiar with this Agreement and has notified City of any discrepancies, conflicts or errors herein. In the event of a conflict in the terms of this Agreement and/or the exhibits attached hereto, the terms most beneficial to City shall govern. The Parties hereto agree that, if an ambiguity or question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions of the Agreement. In the interest of brevity, the Agreement may omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. Words or terms used as nouns in the Agreement shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires contrary meaning.

**M. Force Majeure.** Neither City nor Consultant shall be liable for its respective non-negligent or non-willful failure to perform or shall be deemed in default with respect to the failure to perform (or cure a failure to perform) any of its respective duties or obligations under this Agreement or for any delay in such performance due to: (i) any cause beyond its respective reasonable control; (ii) any act of God; (iii) any change in applicable governmental rules or regulations rendering the performance of any portion of this Agreement legally impossible; (iv) earthquake, fire, explosion or flood; (v) strike or labor dispute, excluding strikes or labor disputes

by employees and/or agents of Consultant; (vi) delay or failure to act by any governmental or military authority; or (vii) any war, hostility, embargo, sabotage, civil disturbance, riot, insurrection or invasion. In such event, the time for performance shall be extended by an amount of time equal to the period of delay caused by such acts, and all other obligations shall remain intact.

N. **Material Condition.** Each term of this Agreement is material, and Consultant's breach of any term of this Agreement shall be considered a material breach of the entire Agreement and shall be grounds for termination or exercise of any other remedies available to City at law or in equity.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF City and Consultant have executed this Agreement, effective as of the Effective Date first above written.

CONSULTANT: William F. Ross (d/b/a Ross+associates)

Signature: [Handwritten Signature]

Print Name: William Ross

Title: President  
Owner (Sole Proprietorship/Individual)

Attest/Witness:

Signature: [Handwritten Signature]

Print Name: PATRICIA B JAMES

Title: \_\_\_\_\_  
(Assistant) Corporate Secretary (required if corporation)

CITY OF MILTON, GEORGIA

By: Joe Lockwood, Mayor

[CITY SEAL]

Attest:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: City Clerk

Approved as to form:

DocuSigned by: Jennifer McCall 8/14/2023  
City Attorney \_\_\_\_\_ Date

**EXHIBIT "A"**

RESERVED

**EXHIBIT "B"**

June 26, 2023

Mr. Robert Buscemi  
 Community Development Director  
 City of Milton  
 13000 Deerfield Parkway  
 Milton, GA 30004

RE: New 2023 Impact Fee Program

Bob --

This is to propose consulting services to the City of Milton regarding the preparation of a complete update through amendment of the City's Impact Fee Program in 2023. This proposal will constitute a new contract replacing our original contract of July 20, 2020 and Change Order #1. It is separate from, and will not amend, our recently approved purchased order to complete the 2023 Annual Update.

Our services will include advice and assistance to the City regarding the preparation of a complete update of the original Impact Fee Methodology Report of 2015 (as partially revised in 2022) with up-to-date impact fee calculations, an amended Capital Improvements Element, the preparation of a revised impact fee schedule to be used as an amendment to the existing Impact Fee Ordinance, and updates to our Microsoft Access-based fee collection program and Administrator's Implementation Manual to reflect the new impact fee schedule and associated land uses.

The results of our proposed services will be the completion of an updated impact fee program for the City meeting all legal and administrative requirements, including an updated impact fee schedule and amended Impact Fee Ordinance.

Our assistance will include the following items:

1. Review of and revisions to the public facilities projects in the current impact fee program, with specific attention to possible changes in any or all of the four public facility categories (parks and recreation, fire protection, police, and roads), and including any applicable updates to the projects and estimated costs in any of these public facility categories.
2. An updated Impact Fee Methodology Report will be prepared, including new impact fee calculations which will reflect any necessary changes in the following areas:
  - a. Population and dwelling unit projections incorporating the recent projections we prepared for the "build-out" scenario as well as new employment projections for the city extended to the year 2045;
  - b. Tax digest or TSPLOST forecasts, as applicable;



- c. Updated facility inventories and level of service standards for the four public facility categories;
  - d. Project cost estimates and actual costs for completed projects;
  - e. Estimated public facility project ‘start’ dates; and,
  - f. The calculation of ‘net present value’ for any and all dollar amounts, reflecting the applicable savings interest rate and ENR’s Building and Construction Cost Indices.
3. Attendance at one City Council work session to review the fully updated Methodology Report, which then will be finalized reflecting the Council’s comments.
  4. Preparation of an amended Capital Improvements Element (CIE) based on the finalized Methodology Report and including an updated 5-Year Community Work Program.
  5. Preparation of a transmittal resolution and suggested public notice language for the CIE Amendment Transmittal Public Hearing.
  6. Attendance at the one State-mandated public hearing before the City Council on transmittal of the amended CIE by staff for regional and state review.
  7. Review of comments from DCA or the Atlanta Regional Commission (if any) on the draft CIE.
  8. Review and update of the current Impact Fee Ordinance text to conform to any new requirements presented by the latest amendment of the State Law or DCA requirements, which will be finalized upon review and input by the City Attorney.
  9. Preparation of an updated maximum impact fee schedule for discussion as an amendment to the Impact Fee Ordinance, and attendance at one City Council meeting to discuss and finalize the fee schedule to be adopted.
  10. Attendance at the two State-mandated public hearings before the City Council regarding adoption of the amended Impact Fee Ordinance.
  11. Preparation of an adoption resolution and attendance at one meeting of the City Council to adopt the amended CIE and amended Impact Fee Ordinance. It is intended that the adoption of the CIE and the Ordinance will occur at the second public hearing on the Ordinance.
  12. Delivery of the final adopted CIE to be forwarded to ARC by staff.
  13. Preparation of an updated impact fee database (in Microsoft Access) to include the new fee schedule.
  14. Such additional services that the City may specifically request.

Our compensation will be billed on a lump sum basis for items 1 through 13 (the complete impact fee program amendment) at a total not to exceed \$48,700.<sup>1</sup> Additional services requested by

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<sup>1</sup> Bear in mind that the work described here qualifies as a “system improvement cost” under the impact fee law, and can be recouped as a portion of the City’s impact fee collections for each public facility category.

the City under item 14, if any, would be invoiced on an hourly basis for professional and travel time at our standard hourly rates, as mutually agreeable between us. Note that we are always available to answer questions and provide advice that are easily responded to and do not involve research and reports, pro bono.

We have enjoyed our past years of service to the City on its impact fee program and look forward to working with you and the City Staff on this project again.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Ross". The signature is written in a cursive, slightly stylized font.

cc: Paige Hatley, Hatley Plans LLC

## Schedule of Key Events

### Milton Impact Fee Amendment

\$ 48,700

180 per hour

	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
<b>Impact Fee Study Initiation</b>									
Project Kick-Off and Finalize Schedule									
Update Meeting w/City Departments									
<b>Impact Fee Methodology Report</b>									
Receive Data from City Departments									
Prepare Pop, HU, Emp & Traffic Forecasts									
Prepare Partial Draft of the Methodology Report									
Draft Final Impact Fee Methodology Report									
Methodology Report -- City Council									
Finalize Methodology Report									
<b>Capital Improvements Element</b>									
Draft Capital Improvements Element w/CWP									
CIE Transmittal Public Hearing									
CIE Review Period -- ARC/DCA									
<b>Adoption of the Impact Fee Program</b>									
Draft Impact Fee Ordinance Amendments									
Finalize Impact Fee Ord -- City Attorney									
Finalize Schedule of Impact Fees to be Charged									
Impact Fee Ord -- Public Hearing #1									
Impact Fee Ord -- Public Hearing #2									
City Council Adopts CIE & Impact Fee Ord									

\* City Council Meeting  
 Consultant Activity

Budget Estimate	Hours
1,440	8
1,440	8
<b>\$ 2,880</b>	
2,160	12
4,320	24
6,480	36
8,640	48
1,440	8
2,880	16
<b>\$ 25,920</b>	
6,480	36
1,440	8
720	4
<b>\$ 8,640</b>	
4,320	24
2,160	12
1,440	8
1,440	8
1,900	10.555
-	0
<b>\$ 11,260</b>	

**EXHIBIT “C”**

RESERVED

**EXHIBIT "D"**

STATE OF GEORGIA  
COUNTY OF MORGAN

**CONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services on behalf of the City of Milton, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b).

Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

268899  
Federal Work Authorization User Identification  
Number

10/29/08  
Date of Authorization

William F. Ross (d/b/a Ross+associates)  
Name of Contractor

Impact Fee Program Amendment  
Name of Project

City of Milton, Georgia  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on August 11, 2023 in  
MADISON (city), GA (state).

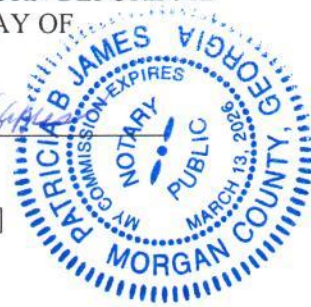
[Signature]  
Signature of Authorized Officer or Agent

William Ross, President  
Printed Name and Title of Authorized Officer or  
Agent

SUBSCRIBED AND SWORN BEFORE ME  
ON THIS THE 11 DAY OF  
August, 2023.

[Signature]  
NOTARY PUBLIC

[NOTARY SEAL]



My Commission Expires:  
3/13/2026

**EXHIBIT "E"**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

**SUBCONTRACTOR AFFIDAVIT**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with William F. Ross (d/b/a Ross+associates) on behalf of the City of Milton, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period, and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five (5) business days of receipt. If the undersigned subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned subcontractor must forward, within five (5) business days of receipt, a copy of the notice to the contractor.

Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification  
Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Contractor

Impact Fee Program Amendment  
Name of Project

City of Milton, Georgia  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, 20\_\_ in  
\_\_\_\_\_ (city), \_\_\_\_\_ (state).

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME  
ON THIS THE \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

[NOTARY SEAL]

My Commission Expires:  
\_\_\_\_\_

**EXHIBIT “F”**

The following individuals are designated as Key Personnel under this Agreement and, as such, are necessary for the successful prosecution of the Work: See Exhibit B

STAFF MEMO: FINANCIAL

TO: Honorable Mayor and City Council Members
FROM: Robert Buscemi, Community Development Director
DATE: Submitted on July 14, 2023, for the August 21, 2023, Regular City Council Meeting

DocuSigned by: [Signature] B925AC05B9B845A...

AGENDA ITEM: Approval of a Professional Services Agreement between the City of Milton and It's My Party, LLC for Rental Equipment at Crabapple Fest 2023

PROJECT DESCRIPTION

The City of Milton has requested the rental and delivery of several items for Milton's Annual Crabapple Fest. For safety, logistics, and seamless set up and tear down of the festival, the City installs all tents and rental items for vendors. It's My Party provides approximately 110 tents each year (10x10 or 10x20 white canopy tent). These tents are set up by It's My Party on Friday evening and taken down once the festival concludes on Saturday evening. They are inspected in advance by the Fire Marshal and are rated for fire safety and properly weighted with large concrete weights to withstand heavy winds. The rental costs for the tent (approximately \$90-\$100) have been built into the application fee for each vendor, so the City passes along these costs to applicants though the contract is secured in advance. Additionally, the City rents banquet tables, high top tables, tablecloths, picnic tables and folding chairs for the community eating area, generators with accessories as well as a light tower to enable safe set up for vendors the evening before the festival and in the early morning hours on Saturday to add additional light for safety and security on Crabapple Road. The costs associated with this professional services agreement is within the scope of budget for professional fees and benefits staff, public safety, event organizers, vendors, and attendees of the festival.

PROCUREMENT SUMMARY

Purchasing method used: 3 Written Quotes (\$5,000-\$49,999)
Account Number: 201-1571-522320002
Requisition Total: \$17,748.90

REVIEW & APPROVALS

Financial Review: Karen Ellis, Finance Director - July 14, 2023
Legal Review: Jennifer McCall, Jarrard & Davis, LLP - June 28, 2023
Concurrent Review: Steven Krokoff, City Manager
Attachment(s): Professional Services Agreement

DocuSigned by: [Signature] 45755D597160487...

DocuSigned by: Steven Krokoff 9E6DD808EBB74CF...

SERVICE • TEAMWORK • OWNERSHIP • LEADERSHIP • RURAL HERITAGE







**PROFESSIONAL SERVICES AGREEMENT  
Rental Equipment – Crabapple Fest 2023**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”), by and between the **CITY OF MILTON, GEORGIA**, a municipal corporation of the State of Georgia, acting by and through its governing authority, the Mayor and City Council (hereinafter referred to as the “City”), and **IT’S MY PARTY RENTALS, LLC**, a Georgia limited liability company, having its principal office address of 1670 S. Main, Suite B, Alpharetta, Georgia 30009, (herein after referred to as the "Contractor"), collectively referred to herein as the "Parties."

**WITNESSETH:**

**WHEREAS**, City desires to retain Contractor to provide certain services in the completion of a Project (defined below); and

**WHEREAS**, City finds that specialized knowledge, skills, and training are necessary to perform the Work (defined below) contemplated under this Agreement; and

**WHEREAS**, Contractor has represented that it is qualified by training and experience to perform the Work; and

**WHEREAS**, Contractor desires to perform the Work as set forth in this Agreement under the terms and conditions provided in this Agreement; and

**WHEREAS**, the public interest will be served by this Agreement; and

**WHEREAS**, Contractor has familiarized itself with the nature and extent of the Agreement, the Project, and the Work, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that may in any manner affect cost, progress or performance of Work.

**NOW, THEREFORE**, for and in consideration of the mutual promises, the public purposes, and the acknowledgements and agreements contained herein, and other good and adequate consideration, the sufficiency of which is hereby acknowledged, the Parties do mutually agree as follows:

## I. SCOPE OF SERVICES AND TERMINATION DATE

A. **Agreement.** The Agreement shall consist of this Professional Services Agreement and each of the Exhibits hereto, which are incorporated herein by reference, including:

- Exhibit “A”** – Contractor’s Proposal
- Exhibit “B”** – Contractor’s Certificate of Insurance
- Exhibit “C”** – Scope of Work
- Exhibit “D”** – Contractor Affidavit
- Exhibit “E”** – Subcontractor Affidavit
- Exhibit “F”** – Key Personnel

B. **Project Description.** The “Project” at issue in this Agreement is generally described as: provide rental and delivery services for equipment needed at the Crabapple Fest 2023 event held in Milton, Georgia.

C. **The Work.** The Work to be completed under this Agreement (the “Work”) includes, but shall not be limited to, the work described in the Scope of Work provided in **Exhibit “C”**, attached hereto and incorporated herein by reference. Unless otherwise stated in **Exhibit “C”**, the Work includes all material, labor, insurance, tools, equipment, machinery, transportation, , services and any other miscellaneous items and work necessary to complete the Work. Some details necessary for proper execution and completion of the Work may not be specifically described in the Scope of Work, but they are a requirement of the Work if they are a usual and customary component of the contemplated services or are otherwise necessary for proper completion of the Work.

D. **Schedule, Completion Date, and Term of Agreement.** Contractor understands that time is of the essence of this Agreement and warrants and represents that it will perform the Work in a prompt and timely manner, which shall not impose delays on the progress of the Work. The term of this Agreement (“Term”) shall commence as of October 6, 2023, and the Work shall be completed, and the Agreement shall terminate, on or before October 8, 2023 (provided that certain obligations will survive termination/expiration of this Agreement). If the Term of this Agreement is longer than one year, the Parties agree that this Agreement, as required by O.C.G.A. § 36-60-13, shall terminate absolutely and without further obligation on the part of City on December 31 each calendar year of the Term, and further, that this Agreement shall automatically renew on January 1 of each subsequent calendar year absent City’s provision of written notice of non-renewal to Contractor at least five (5) days prior to the end of the then current calendar year. Title to any supplies, materials, equipment, or other personal property shall remain in Contractor until fully paid for by City.

## II. WORK CHANGES

A. **Change Order Defined.** A “Change Order” means a written modification of the Agreement, signed by representatives of City and Contractor with appropriate authorization.

**B. Right to Order Changes.** City reserves the right to order changes in the Work to be performed under this Agreement by altering, adding to, or deducting from the Work. All such changes shall be incorporated in written Change Orders and executed by Contractor and City. Such Change Orders shall specify the changes ordered and any necessary adjustment of compensation and completion time. If the Parties cannot reach an agreement on the terms for performing the changed work within a reasonable time to avoid delay or other unfavorable impacts as determined by City in its sole discretion, City shall have the right to determine reasonable terms, and Contractor shall proceed with the changed work.

**B. Change Order Requirement.** Any work added to the scope of this Agreement by a Change Order shall be executed under all the applicable conditions of this Agreement. No claim for additional compensation or extension of time shall be recognized, unless contained in a written Change Order duly executed on behalf of City and Contractor.

**C. Authority to Execute Change Order.** The City Manager has authority to execute, without further action of the Mayor or City Council, any number of Change Orders so long as their total effect does not materially alter the terms of this Agreement or materially increase the Maximum Contract Price, as set forth in Section III(B) below. Any such Change Orders materially altering the terms of this Agreement, or any Change Order affecting the price where the Maximum Contract Price (as amended) is in excess of \$50,000, must be approved by resolution of the Mayor and City Council. Amendments shall not result in a variance in price exceeding ten percent of the original contract amount.

### III. COMPENSATION AND METHOD OF PAYMENT

**A. Payment Terms.** City agrees to pay Contractor for the Work performed and costs incurred by Contractor upon certification by City that the Work was actually performed and costs actually incurred in accordance with the Agreement. Compensation for Work performed and, if applicable, reimbursement for costs incurred shall be paid to Contractor upon City's receipt and approval of invoices, setting forth in detail the services performed and costs incurred, along with all supporting documents requested by City to process the invoice. Invoice shall be submitted upon completion of the Work, and such invoice shall reflect costs incurred versus costs budgeted. Any material deviations in tests or inspections performed, or times or locations required to complete such tests or inspections, and like deviations from the Work described in this Agreement shall be clearly communicated to City *before charges are incurred* and shall be handled through Change Orders as described in Section II above. City shall pay Contractor within thirty (30) days after approval of the invoice by City staff.

**B. Maximum Contract Price.** The total amount paid under this Agreement as compensation for Work performed and reimbursement for costs incurred shall not, in any case, exceed **SEVENTEEN THOUSAND, SEVEN HUNDRED FIFTY-EIGHT AND 90/100 DOLLARS** (\$17,758.90) (the "Maximum Contract Price"), except as outlined in Section II(C) above, and Contractor represents that this amount is sufficient to perform all of the Work set forth in and contemplated by this Agreement. The compensation for Work performed shall be based upon a lump sum fee.

C. **Reimbursement for Costs.** The Maximum Contract Price set forth in Section III(B) above includes all costs, direct and indirect, needed to perform the Work and complete the Project, and reimbursement for costs incurred shall be limited as follows:

There shall be no reimbursement for costs.

#### IV. COVENANTS OF CONTRACTOR

A. **Expertise of Contractor; Licenses, Certification and Permits.** Contractor accepts the relationship of trust and confidence established between it and City, recognizing that City's intention and purpose in entering into this Agreement is to engage an entity with the requisite capacity, experience, and professional skill and judgment to provide the Work in pursuit of the timely and competent completion of the Work undertaken by Contractor under this Agreement. Contractor shall employ only persons duly qualified in the appropriate area of expertise to perform the Work described in this Agreement.

Contractor covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of Contractor by any and all national, state, regional, county, or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Work contracted for under this Agreement. Further, Contractor agrees that it will perform all Work in accordance with the standard of care and quality ordinarily expected of competent professionals and in compliance with all federal, state, and local laws, regulations, codes, ordinances, or orders applicable to the Project, including, but not limited to, any applicable records retention requirements and Georgia's Open Records Act (O.C.G.A. § 50-18-71, *et seq.*). Any additional work or costs incurred as a result of error and/or omission by Contractor as a result of not meeting the applicable standard of care or quality will be provided by Contractor at no additional cost to City. This provision shall survive termination of this Agreement.

B. **Budgetary Limitations.** Contractor agrees and acknowledges that budgetary limitations are not a justification for breach of sound principals of Contractor's profession and industry. Contractor shall take no calculated risk in the performance of the Work. Specifically, Contractor agrees that, in the event it cannot perform the Work within the budgetary limitations established without disregarding sound principles of Contractor's profession and industry, Contractor will give written notice immediately to City.

C. **City's Reliance on the Work.** Contractor acknowledges and agrees that City does not undertake to approve or pass upon matters of expertise of Contractor and that, therefore, City bears no responsibility for Contractor's Work performed under this Agreement. Contractor acknowledges and agrees that the acceptance of Work by City is limited to the function of determining whether there has been compliance with what is required to be produced under this Agreement. City will not, and need not, inquire into adequacy, fitness, suitability or correctness of Contractor's performance. Contractor further agrees that no approval of designs, plans, specifications or other work product by any person, body or agency shall relieve Contractor of the responsibility for adequacy, fitness, suitability, and correctness of Contractor's Work under professional and industry standards, or for performing services under this Agreement in

accordance with sound and accepted professional and industry principles.

**D. Contractor's Reliance on Submissions by City.** Contractor must have timely information and input from City in order to perform the Work required under this Agreement. Contractor is entitled to rely upon information provided by City, but Contractor shall provide immediate written notice to City if Contractor knows or reasonably should know that any information provided by City is erroneous, inconsistent, or otherwise problematic.

**E. Contractor's Representative.** Tony Worley shall be authorized to act on Contractor's behalf with respect to the Work as Contractor's designated representative, provided that this designation shall not relieve either Party of any written notice requirements set forth elsewhere in this Agreement.

**F. Assignment of Agreement.** Contractor covenants and agrees not to assign or transfer any interest in, or delegate any duties of this Agreement, without the prior express written consent of City. As to any approved subcontractors, Contractor shall be solely responsible for reimbursing them, and City shall have no obligation to them.

**G. Responsibility of Contractor and Indemnification of City.** Contractor covenants and agrees to take and assume all responsibility for the Work rendered in connection with this Agreement. Contractor shall bear all losses and damages directly or indirectly resulting to it and/or City on account of the performance or character of the Work rendered pursuant to this Agreement. Contractor shall defend, indemnify and hold harmless City and City's elected and appointed officials, officers, boards, commissions, employees, representatives, Contractors, servants, agents, attorneys and volunteers (individually an "Indemnified Party" and collectively "Indemnified Parties") from and against any and all claims, suits, actions, judgments, injuries, damages, losses, costs, expenses and liability of any kind whatsoever, including but not limited to attorney's fees and costs of defense ("Liabilities"), which may arise from or be the result of an alleged willful, negligent or tortious act or omission arising out of the Work, performance of contracted services, or operations by Contractor, any subcontractor, anyone directly or indirectly employed by Contractor or subcontractor or anyone for whose acts or omissions Contractor or subcontractor may be liable, regardless of whether or not the act or omission is caused in part by a party indemnified hereunder; provided that this indemnity obligation shall only apply to the extent Liabilities are caused by or result from the negligence, recklessness, or intentionally wrongful conduct of the Contractor or other persons employed or utilized by the Contractor in the performance of this Agreement. This indemnity obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this provision.

In any and all claims against an Indemnified Party, by any employee of Contractor, its subcontractor, anyone directly or indirectly employed by Contractor or subcontractor or anyone for whose acts Contractor or subcontractor may be liable, the indemnification obligation set forth in this provision shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. This obligation to indemnify, defend, and hold harmless the Indemnified Party(ies) shall survive

expiration or termination of this Agreement, provided that the claims are based upon or arise out of actions or omissions that occurred during the performance of this Agreement.

**H. Independent Contractor.** Contractor hereby covenants and declares that it is engaged in an independent business and agrees to perform the Work as an independent contractor and not as the agent or employee of City. Nothing in this Agreement shall be construed to make Contractor or any of its employees, servants, or subcontractors, an employee, servant or agent of City for any purpose. Contractor agrees to be solely responsible for its own matters relating to the time and place the Work is performed and the method used to perform such Work; the instrumentalities, tools, supplies and/or materials necessary to complete the Work; hiring of Contractors, agents or employees to complete the Work; and the payment of employees, including benefits and compliance with Social Security, withholding and all other regulations governing such matters. Contractor agrees to be solely responsible for its own acts and those of its subordinates, employees, and subcontractors during the life of this Agreement. There shall be no contractual relationship between any subcontractor or supplier and City by virtue of this Agreement with Contractor. Any provisions of this Agreement that may appear to give City the right to direct Contractor as to the details of the services to be performed by Contractor or to exercise a measure of control over such services will be deemed to mean that Contractor shall follow the directions of City with regard to the results of such services only. It is further understood that this Agreement is not exclusive, and City may hire additional entities to perform the Work related to this Agreement.

Inasmuch as City and Contractor are independent of each other, neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both Parties hereto. Contractor agrees not to represent itself as City's agent for any purpose to any party or to allow any employee of Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. Contractor shall assume full liability for any contracts or agreements Contractor enters into on behalf of City without the express knowledge and prior written consent of City.

**I. Insurance.**

- (1) Requirements: Contractor shall have and maintain in full force and effect for the duration of this Agreement, insurance insuring against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work by Contractor, its agents, representatives, employees or subcontractors. All policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager.
  
- (2) Minimum Limits of Insurance: Contractor shall maintain the following insurance policies with coverage and limits no less than:
  - (a) Commercial General Liability coverage of at least \$1,000,000 (one million dollars) combined single limit per occurrence and

\$2,000,000 (two million dollars) aggregate for comprehensive coverage including for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.

- (b) Commercial Automobile Liability (owned, non-owned, hired) coverage of at least \$1,000,000 (one million dollars) combined single limit per occurrence for comprehensive coverage including bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.
  - (c) Professional Liability of at least \$1,000,000 (one million dollars) limit for claims arising out of professional services and caused by Contractor's errors, omissions, or negligent acts.
  - (d) Workers' Compensation limits as required by the State of Georgia and Employers' Liability limits of \$1,000,000 (one million dollars) per occurrence or disease. (If Contractor is a sole proprietor, who is otherwise not entitled to coverage under Georgia's Workers' Compensation Act, Contractor must secure Workers' Compensation coverage approved by both the State Board of Workers' Compensation and the Commissioner of Insurance. The amount of such coverage shall be the same as what is otherwise required of employers entitled to coverage under the Georgia Workers' Compensation Act. Further, Contractor shall provide a certificate of insurance indicating that such coverage has been secured and that no individual has been excluded from coverage.)
  - (e) Commercial Umbrella Liability Coverage: \$  
n/a per occurrence shall be provided and will apply over all liability policies, without exception, including but not limited to Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and Professional Liability.
- (3) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by City in writing so that City may ensure the financial solvency of Contractor; self-insured retentions should be included on the certificate of insurance.
- (4) Other Insurance Provisions: Each policy shall contain, or be endorsed to contain, the following provisions respectively:
- (a) General Liability, Automobile Liability and (if applicable) Umbrella Liability Coverage.

- (i) **Additional Insured Requirement.** City and City's elected and appointed officials, officers, boards, commissioners, employees, representatives, Contractors, servants, agents and volunteers (individually "Insured Party" and collectively "Insured Parties") shall be named as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, leased, or used by Contractor; automobiles owned, leased, hired, or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Insured Parties. Nothing contained in this section shall be construed to require the Contractor to provide liability insurance coverage to any Insured Party for claims asserted against such Insured Party for its sole negligence.
  - (ii) **Primary Insurance Requirement.** Contractor's insurance coverage shall be primary noncontributing insurance as respects to any other insurance or self-insurance available to the Insured Parties. Any insurance or self-insurance maintained by the Insured Parties shall be in excess of Contractor's insurance and shall not contribute with it.
  - (iii) **Reporting Requirement.** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Insured Parties.
  - (iv) **Separate Coverage.** Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to limits of insurance provided.
  - (v) **Defense Costs/Cross Liability.** Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion.
  - (vi) **Subrogation.** The insurer shall agree to waive all rights of subrogation against the Insured Parties for losses arising from Work performed by Contractor for City.
- (b) **Workers' Compensation Coverage.** The insurer providing Workers' Compensation Coverage will agree to waive all rights of subrogation against the Insured Parties for losses arising from Work performed by Contractor for City.



- (c) All Coverages.
- (i) Notice Requirement. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, or canceled except after thirty (30) calendar days prior written notice (or 10 calendar days if due to non-payment) has been given to City. City reserves the right to accept alternate notice terms and provisions, provided they meet the minimum requirements under Georgia law.
  - (ii) Starting and Ending Dates. Policies shall have concurrent starting and ending dates.
  - (iii) Incorporation of Indemnification Obligations. Policies shall include an endorsement incorporating the indemnification obligations assumed by Contractor under the terms of this Agreement, including but not limited to Section IV(G) of this Agreement.
- (5) Acceptability of Insurers: The insurance to be maintained by Contractor must be issued by a company licensed or approved by the Insurance Commissioner to transact business in the State of Georgia. Such insurance policies shall be placed with insurer(s) with an A.M. Best Policyholder's rate of no less than "A-" and with a financial rating of Class VII or greater. The Contractor shall be responsible for any delay resulting from the failure of its insurer to provide proof of coverage in the proscribed form.
- (6) Verification of Coverage: Contractor shall furnish to City for City approval certificates of insurance and endorsements to the policies evidencing all coverage required by this Agreement prior to the start of work. Without limiting the general scope of this requirement, Contractor is specifically required to provide an endorsement naming City as an additional insured when required. The certificates of insurance and endorsements for each insurance policy are to be on a form utilized by Contractor's insurer in its normal course of business and are to be signed by a person authorized by that insurer to bind coverage on its behalf, unless alternate sufficient evidence of their validity and incorporation into the policy is provided. City reserves the right to require complete, certified copies of all required insurance policies at any time. Contractor shall provide proof that any expiring coverage has been renewed or replaced prior to the expiration of the coverage.
- (7) Subcontractors: Contractor shall either (1) ensure that its insurance policies (as described herein) cover all subcontractors and the Work performed by such subcontractors or (2) ensure that any subcontractor secures separate

policies covering that subcontractor and its Work. All coverage for subcontractors shall be subject to all of the requirements stated in this Agreement, including, but not limited to, naming the Insured Parties as additional insureds.

- (8) Claims-Made Policies: Contractor shall extend any claims-made insurance policy for at least six (6) years after termination or final payment under the Agreement, whichever is later, and have an effective date which is on or prior to the Effective Date.
- (9) City as Additional Insured and Loss Payee: City shall be named as an additional insured and loss payee on all policies required by this Agreement, except City need not be named as an additional insured and loss payee on any Professional Liability policy or Workers' Compensation policy.
- (10) Progress Payments: The making of progress payments to Contractor shall not be construed as relieving Contractor or its subcontractors or insurance carriers from providing the coverage required in this Agreement.

**J. Employment of Unauthorized Aliens Prohibited – E-Verify Affidavit.** Pursuant to O.C.G.A. § 13-10-91, City shall not enter into a contract for the physical performance of services unless:

- (1) Contractor shall provide evidence on City-provided forms, attached hereto as **Exhibits "D" and "E"** (affidavits regarding compliance with the E-Verify program to be sworn under oath under criminal penalty of false swearing pursuant to O.C.G.A. § 16-10-71), that it and Contractor's subcontractors have registered with, are authorized to use and use the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91, and that they will continue to use the federal work authorization program throughout the contract period, **or**
- (2) Contractor provides evidence that it is not required to provide an affidavit because it is an *individual* (not a company) licensed pursuant to Title 26 or Title 43 or by the State Bar of Georgia and is in good standing.

Contractor hereby verifies that it has, prior to executing this Agreement, executed a notarized affidavit, the form of which is provided in **Exhibit "D"**, and submitted such affidavit to City or provided City with evidence that it is an individual not required to provide such an affidavit because it is licensed and in good standing as noted in sub-subsection (2) above. Further, Contractor hereby agrees to comply with the requirements of the federal Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, O.C.G.A. § 13-10-91 and Georgia Department of Labor Rule 300-10-1-.02.

In the event Contractor employs or contracts with any subcontractor(s) in connection with the covered contract, Contractor agrees to secure from such subcontractor(s) attestation of the subcontractor's compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 by the subcontractor's execution of the subcontractor affidavit, the form of which is attached hereto as **Exhibit "E"**, which subcontractor affidavit shall become part of the Contractor/subcontractor agreement, or evidence that the subcontractor is not required to provide such an affidavit because it is an *individual* licensed and in good standing as noted in sub-subsection (2) above. If a subcontractor affidavit is obtained, Contractor agrees to provide a completed copy to City within five (5) business days of receipt from any subcontractor.

Where Contractor is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the City Manager or his/her designee shall be authorized to conduct an inspection of Contractor's and Contractor's subcontractors' verification process at any time to determine that the verification was correct and complete. Contractor and Contractor's subcontractors shall retain all documents and records of their respective verification process for a period of five (5) years following completion of the contract. Further, where Contractor is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the City Manager or his/her designee shall further be authorized to conduct periodic inspections to ensure that no City Contractor or Contractor's subcontractors employ unauthorized aliens on City contracts. By entering into a contract with City, Contractor and Contractor's subcontractors agree to cooperate with any such investigation by making their records and personnel available upon reasonable notice for inspection and questioning. Where Contractor or Contractor's subcontractors are found to have employed an unauthorized alien, the City Manager or his/her designee may report same to the Department of Homeland Security. Contractor's failure to cooperate with the investigation may be sanctioned by termination of the Agreement, and Contractor shall be liable for all damages and delays occasioned by City thereby.

Contractor agrees that the employee-number category designated below is applicable to Contractor. [Information only required if a contractor affidavit is required pursuant to O.C.G.A. § 13-10-91.]

500 or more employees.

100 or more employees.

Fewer than 100 employees.

Contractor hereby agrees that, in the event Contractor employs or contracts with any subcontractor(s) in connection with this Agreement and where the subcontractor is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, Contractor will secure from the subcontractor(s) such subcontractor(s)' indication of the above employee-number category that is applicable to the subcontractor.

The above requirements shall be in addition to the requirements of state and federal law, and shall be construed to be in conformity with those laws.

**K. Records, Reports and Audits.**

- (1) Records:
  - (a) Books, records, documents, account ledgers, data bases, and similar materials relating to the Work performed for City under this Agreement (“Records”) shall be established and maintained by Contractor in accordance with applicable law and requirements prescribed by City with respect to all matters covered by this Agreement. Except as otherwise authorized or required, such Records shall be maintained for at least three (3) years from the date that final payment is made to Contractor by City under this Agreement. Furthermore, Records that are the subject of audit findings shall be retained for three (3) years or until such audit findings have been resolved, whichever is later.
  - (b) All costs claimed or anticipated to be incurred in the performance of this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.
- (2) Reports and Information: Upon request, Contractor shall furnish to City any and all Records in the form requested by City. All Records provided electronically must be in a format compatible with City’s computer systems and software.
- (3) Audits and Inspections: At any time during normal business hours and as often as City may deem necessary, Contractor shall make available to City or City’s representative(s) for examination all Records. Contractor will permit City or City’s representative(s) to audit, examine, and make excerpts or transcripts from such Records. Contractor shall provide proper facilities for City or City’s representative(s) to access and inspect the Records, or, at the request of City, shall make the Records available for inspection at City’s office. Further, Contractor shall permit City or City’s representative(s) to observe and inspect any or all of Contractor’s facilities and activities during normal hours of business for the purpose of evaluating Contractor’s compliance with the terms of this Agreement. In such instances, City or City’s representative(s) shall not interfere with or disrupt such activities.

**L. Ethics Code; Conflict of Interest.** Contractor agrees that it shall not engage in any activity or conduct that would result in a violation of the City of Milton Code of Ethics or any other similar law or regulation. Contractor certifies that to the best of its knowledge no circumstances exist which will cause a conflict of interest in performing the Work. Should Contractor become aware of any circumstances that may cause a conflict of interest during the Term of this

Agreement, Contractor shall immediately notify City. If City determines that a conflict of interest exists, City may require that Contractor take action to remedy the conflict of interest or terminate the Agreement without liability. City shall have the right to recover any fees paid for services rendered by Contractor when such services were performed while a conflict of interest existed if Contractor had knowledge of the conflict of interest and did not notify City within five (5) business days of becoming aware of the existence of the conflict of interest.

Contractor and City acknowledge that it is prohibited for any person to offer, give, or agree to give any City employee or official, or for any City employee or official to solicit, demand, accept, or agree to accept from another person, a gratuity of more than nominal value or rebate or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor. Contractor and City further acknowledge that it is prohibited for any payment, gratuity, or offer of employment to be made by or on behalf of a sub-Contractor under a contract to the prime Contractor or higher tier sub-Contractor, or any person associated therewith, as an inducement for the award of a subcontract or order.

**M. Confidentiality.** Contractor acknowledges that it may receive confidential information of City and that it will protect the confidentiality of any such confidential information and will require any of its subcontractors, Contractors, and/or staff to likewise protect such confidential information. Contractor agrees that confidential information it learns or receives or such reports, information, opinions or conclusions that Contractor creates under this Agreement shall not be made available to, or discussed with, any individual or organization, including the news media, without prior written approval of City. Contractor shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City information whether specifically deemed confidential or not.

Contractor acknowledges that City's disclosure of documentation is governed by Georgia's Open Records Act, and Contractor further acknowledges that if Contractor submits records containing trade secret information, and if Contractor wishes to keep such records confidential, Contractor must submit and attach to such records an affidavit affirmatively declaring that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10, and the Parties shall follow the requirements of O.C.G.A. § 50-18-72(a)(34) related thereto.

**N. Key Personnel.** All of the individuals identified in **Exhibit "F"**, attached hereto, are necessary for the successful completion of the Work due to their unique expertise and depth and breadth of experience. There shall be no change in Contractor's Project Manager or members of the Project team, as listed in **Exhibit "F"**, without written approval of City. Contractor recognizes that the composition of this team was instrumental in City's decision to award the Work to Contractor and that compelling reasons for substituting these individuals must be demonstrated for City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this paragraph shall constitute

a material breach of Contractor's obligations under this Agreement and shall be grounds for termination.

**O. Meetings.** Contractor is required to meet with City's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the Term of this Agreement at no additional cost to City. Meetings will occur as problems arise and will be coordinated by City. City shall inform Contractor's Representative of the need for a meeting and of the date, time and location of the meeting at least three (3) full business days prior to the date of the meeting. Face-to-face meetings are desired. However, at Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings, two consecutive missed or rescheduled meetings, or failure to make a good faith effort to resolve problems, may result in termination of this Agreement for cause.

**P. Authority to Contract.** The individual executing this Agreement on behalf of Contractor covenants and declares that it has obtained all necessary approvals of Contractor's board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Contractor to the terms of this Agreement, if applicable.

**Q. Ownership of Work.** All reports, designs, drawings, plans, specifications, schedules, work product and other materials, including, but not limited to, those in electronic form, prepared or in the process of being prepared for the Work to be performed by Contractor ("Materials") shall be the property of City, and City shall be entitled to full access and copies of all Materials in the form prescribed by City. Any Materials remaining in the hands of Contractor or subcontractor upon completion or termination of the Work shall be delivered immediately to City whether or not the Project or Work is commenced or completed; provided, however, that Contractor may retain a copy of any deliverables for its records. Contractor assumes all risk of loss, damage or destruction of or to Materials. If any Materials are lost, damaged or destroyed before final delivery to City, Contractor shall replace them at its own expense. Any and all copyrightable subject matter in all Materials is hereby assigned to City, and Contractor agrees to execute any additional documents that may be necessary to evidence such assignment.

**R. Nondiscrimination.** In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, Contractor agrees that, during performance of this Agreement, Contractor, for itself, its assignees and successors in interest, will not discriminate against any employee or applicant for employment, any subcontractor, or any supplier because of race, color, creed or belief, political affiliation, national origin, gender, age or disability. In addition, Contractor agrees to comply with all applicable implementing regulations and shall include the provisions of this paragraph in every subcontract for services contemplated under this Agreement.

**S. Contractors Assisting with Procurement.** As required by O.C.G.A. § 36-80-28, if the Agreement requires the Contractor to prepare, develop, or draft specifications or requirements for a solicitation (including bids, requests for proposals, procurement orders, or purchase orders) or to serve in a consultative role during a bid or proposal evaluation or negotiation

process: (a) the Contractor shall avoid any appearance of impropriety and shall follow all ethics and conflict-of-interest policies and procedures of the City; (b) the Contractor shall immediately disclose to the City any material transaction or relationship, including, but not limited to, that of the Contractor, the Contractor's employees, or the Contractor's agents or subsidiaries, that reasonably could be expected to give rise to a conflict of interest, including, but not limited to, past, present, or known prospective engagements, involvement in litigation or other dispute, client relationships, or other business or financial interest, and shall immediately disclose any material transaction or relationship subsequently discovered during the pendency of the Agreement; and (c) the Contractor agrees and acknowledges that any violation or threatened violation of this paragraph may cause irreparable injury to the City, entitling the City to seek injunctive relief in addition to all other legal remedies.

**V. COVENANTS OF CITY**

**A. Right of Entry.** City shall provide for right of entry for Contractor and all necessary equipment as required for Contractor to complete the Work; provided that Contractor shall not unreasonably encumber the Project site(s) with materials or equipment.

**B. City's Representative.** Anita Jupin, Economic Engagement Manager shall be authorized to act on City's behalf with respect to the Work as City's designated representative on this Project; provided that any changes to the Work or the terms of this Agreement must be approved as provided in Section II above.

**VI. TERMINATION**

**A. For Convenience.** City may terminate this Agreement for convenience at any time upon providing written notice thereof at least seven (7) calendar days in advance of the termination date.

**B. For Cause.** Contractor shall have no right to terminate this Agreement prior to completion of the Work, except in the event of City's failure to pay Contractor within thirty (30) calendar days of Contractor providing City with notice of a delinquent payment and an opportunity to cure. In the event of Contractor's breach or default under this Agreement, City may terminate this Agreement for cause. City shall give Contractor at least seven (7) calendar days' written notice of its intent to terminate the Agreement for cause and the reasons therefor. If Contractor fails to cure the breach or default within that seven (7) day period, or otherwise remedy the breach or default to the reasonable satisfaction of City, then City may, at its election: (a) in writing terminate the Agreement in whole or in part; (b) cure such default itself and charge Contractor for the costs of curing the default against any sums due or which become due to Contractor under this Agreement; and/or (c) pursue any other remedy then available, at law or in equity, to City for such default.

**C. Statutory Termination.** In compliance with O.C.G.A. § 36-60-13, this Agreement shall be deemed terminated as provided in I(D) of this Agreement. Further, this Agreement shall terminate immediately and absolutely at such time as appropriated or otherwise unobligated funds

are no longer available to satisfy the obligation of City.

**D. Payment Upon Termination.** Upon termination, City shall provide for payment to Contractor for services rendered and, where authorized, expenses incurred prior to the termination date; provided that, where this Agreement is terminated for cause, City may deduct from such payment any portion of the cost for City to complete (or hire someone to complete) the Work, as determined at the time of termination, not otherwise covered by the remaining unpaid Maximum Contract Price.

**E. Conversion to Termination for Convenience.** If City terminates this Agreement for cause and it is later determined that City did not have grounds to do so, the termination will be converted to and treated as a termination for convenience under the terms of Section VI(A) above.

**F. Requirements Upon Termination.** Upon termination, Contractor shall: (1) promptly discontinue all services, cancel as many outstanding obligations as possible, and not incur any new obligations, unless the City directs otherwise; and (2) promptly deliver to City all data, drawings, reports, summaries, and such other information and materials as may have been generated or used by Contractor in performing this Agreement, whether completed or in process, in the form specified by City.

**G. Reservation of Rights and Remedies.** The rights and remedies of City and Contractor provided in this Article are in addition to any other rights and remedies provided under this Agreement or at law or in equity.

## VII. MISCELLANEOUS

**A. Entire Agreement.** This Agreement, including any exhibits hereto, constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Agreement not contained in this Agreement shall be valid or binding. This Agreement may be modified or amended only by a written Change Order (as provided in Section II above) or other document signed by representatives of both Parties with appropriate authorization.

**B. Successors and Assigns.** Subject to the provision of this Agreement regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties.

**C. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia without regard to choice of law principles. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the rules, regulations, statutes and laws of the State of Georgia will control. Any action or suit related to this Agreement shall be brought in the Superior Court of Fulton County, Georgia, or the U.S. District Court for the Northern District of Georgia – Atlanta Division, and Contractor submits to the jurisdiction and venue of such court.



**D. Captions and Severability.** All headings herein are intended for convenience and ease of reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Agreement, or in any way affect this Agreement. Should any article(s) or section(s) of this Agreement, or any part thereof, later be deemed illegal, invalid or unenforceable by a court of competent jurisdiction, the offending portion of the Agreement should be severed, and the remainder of this Agreement shall remain in full force and effect to the extent possible as if this Agreement had been executed with the invalid portion hereof eliminated, it being the intention of the Parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions that may for any reason be hereafter declared in valid.

**E. Business License.** Prior to commencement of the Work to be provided hereunder, Contractor shall apply to City for a business license, pay the applicable business license fee, and maintain said business license during the Term of this Agreement, unless Contractor provides evidence that no such license is required.

**F. Notices.**

- (1) **Communications Relating to Day-to-Day Activities.** All communications relating to the day-to-day activities of the Work shall be exchanged between City's Representative (named above) for City and Contractor's Representative (named above) for Contractor.
- (2) **Official Notices.** All other notices, requests, demands, writings, or correspondence, as required by this Agreement, shall be in writing and shall be deemed received, and shall be effective, when: (1) personally delivered, or (2) on the third day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (3) upon actual delivery when sent via national overnight commercial carrier to the Party at the address given below, or at a substitute address previously furnished to the other Party by written notice in accordance herewith.

**NOTICE TO CITY** shall be sent to:

Procurement Manager  
City of Milton, Georgia  
2006 Heritage Walk  
Milton, Georgia 30004

**NOTICE TO CONTRACTOR** shall be sent to:

It's My Party Rentals, LLC  
Attn: Tony Worley  
1670 S Main St, Ste B  
Alpharetta, GA 30009

**G. Waiver of Agreement.** No failure by City to enforce any right or power granted under this Agreement, or to insist upon strict compliance by Contractor with this Agreement, and no custom or practice of City at variance with the terms and conditions of this Agreement shall constitute a general waiver of any future breach or default or affect City's right to demand exact and strict compliance by Contractor with the terms and conditions of this Agreement. Further, no express waiver shall affect any Term or condition other than the one specified in such waiver, and that one only for the time and manner specifically stated.

**H. Survival.** All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, confidentiality obligations and insurance maintenance requirements.

**I. No Third Party Rights.** This Agreement shall be exclusively for the benefit of the Parties and shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action or other right.

**J. Sovereign Immunity; Ratification.** Nothing contained in this Agreement shall be construed to be a waiver of City's sovereign immunity or any individual's qualified, good faith or official immunities. Ratification of this Agreement by a majority of the Mayor and City Council shall authorize the Mayor to execute this Agreement on behalf of City.

**K. No Personal Liability.** Nothing herein shall be construed as creating any individual or personal liability on the part of any of City's elected or appointed officials, officers, boards, commissions, employees, representatives, Contractors, servants, agents, attorneys or volunteers. No such individual shall be personally liable to Contractor or any successor in interest in the event of any default or breach by City or for any amount which may become due to Contractor or successor or on any obligation under the terms of this Agreement. Likewise, Contractor's performance of services under this Agreement shall not subject Contractor's individual employees, officers, or directors to any personal contractual liability, except where Contractor is a sole proprietor. The Parties agree that, except where Contractor is a sole proprietor, their sole and exclusive remedy, claim, demand or suit for contractual liability shall be directed and/or asserted only against Contractor or City, respectively, and not against any elected or appointed official, officers, boards, commissions, employees, representatives, Contractors, servants, agents, attorneys and volunteers.

**L. Counterparts; Agreement Construction and Interpretation.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Contractor represents that it has reviewed and become familiar with this Agreement and has notified City of any discrepancies, conflicts or errors herein. In the event of a conflict in the terms of this Agreement and/or the exhibits attached hereto, the terms most beneficial to City shall govern. The Parties hereto agree that, if an ambiguity or question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions of the Agreement. In the interest of brevity, the Agreement may omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement

and appears in another is not intended to affect the interpretation of either statement. Words or terms used as nouns in the Agreement shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires contrary meaning.

**M. Force Majeure.** Neither City nor Contractor shall be liable for its respective non-negligent or non-willful failure to perform or shall be deemed in default with respect to the failure to perform (or cure a failure to perform) any of its respective duties or obligations under this Agreement or for any delay in such performance due to: (i) any cause beyond its respective reasonable control; (ii) any act of God; (iii) any change in applicable governmental rules or regulations rendering the performance of any portion of this Agreement legally impossible; (iv) earthquake, fire, explosion or flood; (v) strike or labor dispute, excluding strikes or labor disputes by employees and/or agents of CONTRACTOR; (vi) delay or failure to act by any governmental or military authority; or (vii) any war, hostility, embargo, sabotage, civil disturbance, riot, insurrection or invasion. In such event, the time for performance shall be extended by an amount of time equal to the period of delay caused by such acts, and all other obligations shall remain intact.

**N. Material Condition.** Each term of this Agreement is material, and Contractor's breach of any term of this Agreement shall be considered a material breach of the entire Agreement and shall be grounds for termination or exercise of any other remedies available to City at law or in equity.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF City and Contractor have executed this Agreement, effective as of the Effective Date first above written.



CONTRACTOR:  
IT'S MY PARTY RENTALS, LLC

Signature: Howard A Worley

Print Name: HOWARD A WORLEY

Title: [CIRCLE ONE]

Member/Manager (LLC)

Attest/Witness:

Signature: Cynthia R Lunsford  
Print Name: Cynthia R Lunsford  
Title: office manager  
(Assistant) Corporate Secretary (required if corporation)

CITY OF MILTON, GEORGIA

By: Peyton Jamison, Mayor

[CITY SEAL]

Attest:

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: City Clerk

Approved as to form:

DocuSigned by:  
Jennifer McCall 8/10/2023  
City Attorney Date

**EXHIBIT "A"**



**EXHIBIT "B"**





THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED – AUTOMATIC STATUS WHEN REQUIRED BY WRITTEN CONTRACT, AGREEMENT OR PERMIT

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**Section II – Who Is An Insured** is amended to include as an additional insured any person, organization, state or governmental agency or subdivision, or political subdivision when you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) is to be named as an additional insured on your policy, subject to the following provisions:

- A.** The contract, agreement or permit must be in effect during the policy period shown in the Declarations, and must have been executed prior to the “bodily injury,” property damage” or “personal and advertising injury.”
- B.** The person, organization, state or governmental agency or subdivision or political subdivision is an insured only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:
1. The ownership, maintenance or use of that part of the premises leased to you subject to the following additional exclusions:
    - (a) This insurance does not apply to any “occurrence” which takes place after you cease to be a tenant in that premises.
    - (b) This insurance does not apply to any structural alterations, new construction or demolition operations performed by or on behalf of the person or organization added as an insured.
  2. Your acts or omissions, or the acts or omissions of those acting on your behalf, in the performance of your ongoing operations for the additional insured(s), subject to the following additional exclusions:
    - (a) This insurance does not apply to “bodily injury” or “property damage” occurring after all work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance, or repairs) to be performed by or on behalf of the additional insured(s) has been completed.
    - (b) This insurance does not apply to “bodily injury” or “property damage” occurring after that portion of “your work” out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
    - (c) This insurance does not apply to “bodily Injury”, “property damage” or “personal and advertising injury” arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
      - (i) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
      - (ii) Supervisory, inspection, architectural or engineering activities.
  3. The maintenance, operation or use of equipment leased to you by such person(s) or organization(s). This insurance does not apply to any “occurrence” which takes place after the equipment lease expires.
  4. Operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization, subject to the following provisions:

- (a) This insurance does not apply to “bodily injury,” “property damage,” or “personal and advertising injury” arising out of the operations performed for the federal government, state or municipality.
  - (b) This insurance does not apply to “bodily injury” or “property damage” included within the “products-completed operations hazard.”
- 5. Their liability as a grantor of a franchise to you.
- 6. Their liability as a grantor of a license to you. A person(s) or organization(s) status as an additional insured under this provision ends when:
  - (a) The license granted to you by such person(s) or organizations(s) expires; or
  - (b) Your license is terminated or revoked by such person(s) or organizations(s) prior to expiration of the license as stipulated by the contract or agreement.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US (WAIVER OF SUBROGATION) –  
AUTOMATIC**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
ELECTRONIC DATA LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES  
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART  
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions**:

We waive any right of recovery against any person or organization, because of any payment we make under this Coverage Part, to whom the insured has waived its right of recovery in a written contract or agreement. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person or organization prior to loss.

**EXHIBIT "C"**

*See Exhibit "A"*

**EXHIBIT "D"**

STATE OF GA  
COUNTY OF FULTON

**CONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services on behalf of the City of Milton, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b).

Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

770647  
Federal Work Authorization User Identification Number

2014  
Date of Authorization

It's My Party Rentals, LLC  
Name of Contractor

Rental Equipment - Crabapple Fest 2023  
Name of Project

City of Milton, Georgia  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

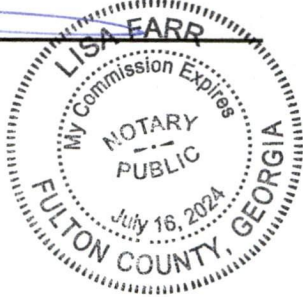
Executed on 8/3/2023 in MILTON (city), GA (state).

Howard A Worley  
Signature of Authorized Officer or Agent

HOWARD A WORLEY (MGR)  
Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME  
ON THIS THE 3 DAY OF  
August, 2023.

[Signature]  
NOTARY PUBLIC  
[NOTARY SEAL]



My Commission Expires:  
July 16, 2024

**EXHIBIT "E"**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

**SUBCONTRACTOR AFFIDAVIT**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with It's My Party Rental, LLC (name of contractor) on behalf of the City of Milton, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period, and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five (5) business days of receipt. If the undersigned subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned subcontractor must forward, within five (5) business days of receipt, a copy of the notice to the contractor.

Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification  
Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Contractor

Rental Equipment – Crabapple Fest 2023  
Name of Project

City of Milton, Georgia  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, 20\_\_ in  
\_\_\_\_\_ (city), \_\_\_\_\_ (state).

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME  
ON THIS THE \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

[NOTARY SEAL]

My Commission Expires:  
\_\_\_\_\_

**EXHIBIT "F"**

The following individuals are designated as Key Personnel under this Agreement and, as such, are necessary for the successful prosecution of the Work:

<b><u>Individual</u></b>	<b><u>Position</u></b>
Tony Worley	Owner/ Project Manager

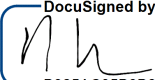


To: Honorable Mayor and City Council Members

From: Robert Buscemi, Community Development Director

Date: Submitted on August 14, 2023 for the **August 21, 2023** Regular Council Meeting

Agenda Item: Approval of Subdivision Plats and Revisions

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**Department Recommendation:**

To approve the subdivision related plats as stated below.

**Executive Summary:**

The Milton Subdivision Regulations require that the Mayor and City Council approve all Final Plats, Final Plat Re-recording, Revisions and Minor Plats once the matter has been reviewed and certified by the Community Development Director in accordance with the Subdivision Regulations.

1. The Minor Plat for **Lot 9 Canterbury on the Lake – Ron Barber** described herein consists of **8.05** acres located at **210 Canterbury Lane**. The purpose of this plat is to subdivide the parcel into two lots. Lot 9-A will contain 4.187 acres and Lot 9-B will contain 3.863 acres.

**Funding and Fiscal Impact:**

None.

**Alternatives:**

Do not approve.

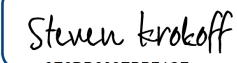
**Legal Review:**

None – not required.





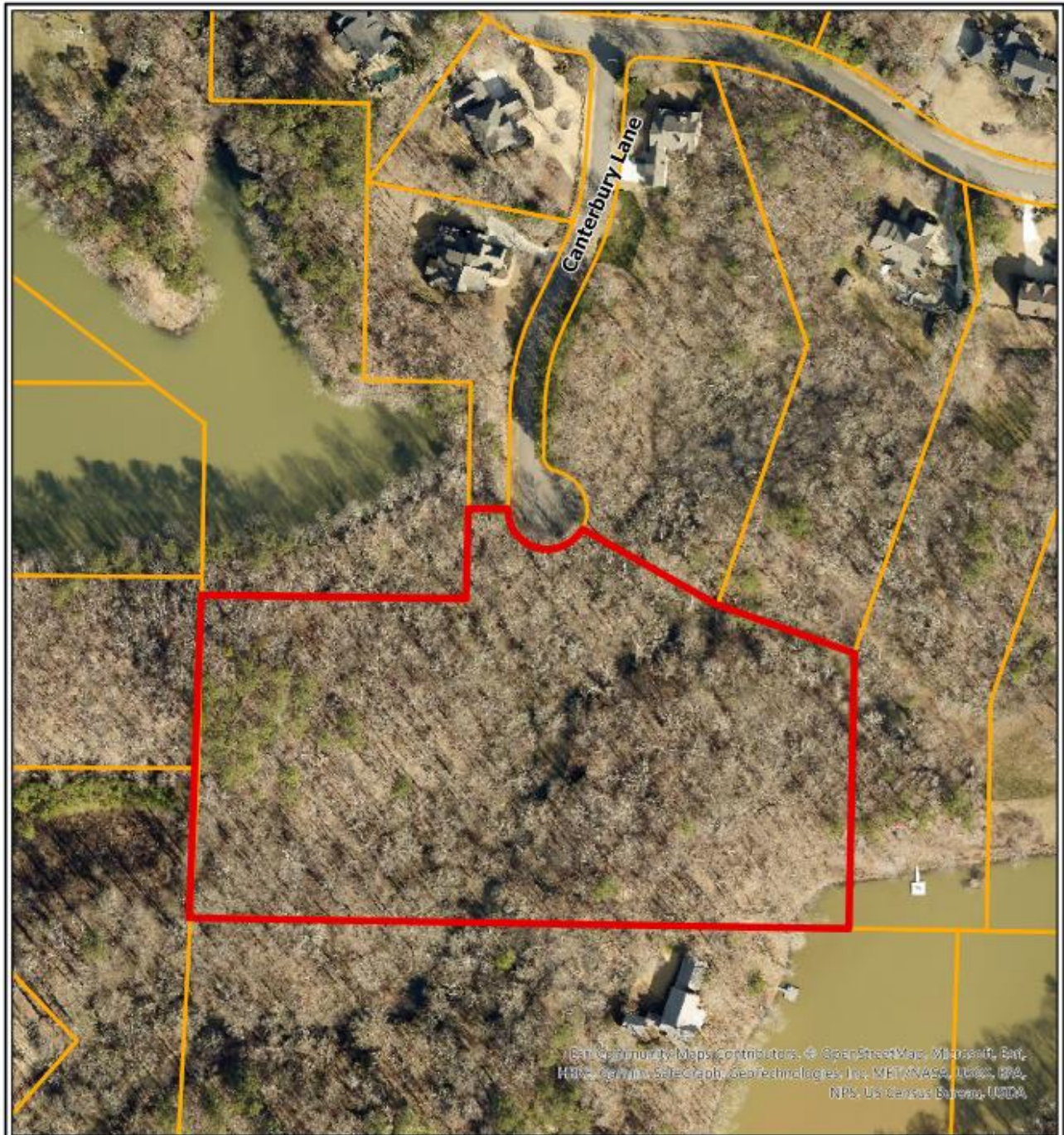
**Concurrent Review:**  
 Steven Krokoff, City Manager

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**Attachment(s):**  
 Plat List, Location Map, Plats

Name of Development / Location	Action	Comments / # lots	Total Acres	Density
<p>1. <b>Lot 9 Canterbury on the Lake – Ron Barber</b>                      210 Canterbury Lane                      LL 457 &amp; 480                      Dist. 2 Sect. 2</p>	<p>Minor Plat</p>	<p>Subdivide the parcel into two lots. Lot 9-A will contain 4.187 acres and Lot 9-B will contain 3.863 acres.</p>	<p><b>8.05</b> Acres</p>	<p><b>0.25</b> Lots/Acre</p>

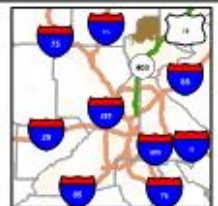
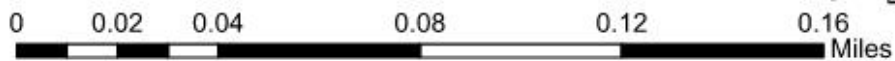
**Lot 9 - Canterbury on the Lake**



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**Lot 9 Canterbury on the Lake**  
**Ron Barber**  
**Minor Plat**

City of Milton  
2023



**MILTON**





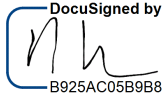


To: Honorable Mayor and City Council Members

From: Robert Buscemi RA, Community Development Director

Date: August 14, 2023, for September 6, 2023, Mayor and City Council Meeting (First Presentation – August 21, 2023)

Agenda Item: **RZ23-02** - A text amendment with respect to notification requirements for various types of land use permits and variance requests and other procedural updates to comply with latest amendment to Georgia State Zoning Procedures Law in Chapter 64, Zoning of the City of Milton City Code.

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**Department Recommendation:**

The Community Development Department recommends approval of the proposed text amendment.

**Executive Summary:**

During the 2022 Georgia legislative session, the Georgia Legislature adopted revisions to the Georgia Zoning Procedures Law (O.C.G.A. § 36-66-1, et seq. "ZPL") establishing minimum procedures for the conduct and enforcement of zoning by local jurisdictions. In addition, the revisions to the ZPL require local jurisdictions to meet certain minimum procedural requirements as part of their zoning ordinances. The City will be required to enforce these requirements no later than July 1, 2023.

The following boards and commissions will be impacted by these new changes:

- Board of Zoning Appeals
- Planning Commission
- Design Review Board – Currently does not require any notice requirements.
- Mayor and City Council

The primary change is the increase the notice of the hearing be published in the newspaper utilized by Milton as the legal organ (The Milton Herald) of 15 days minimum notice to 30 days (but not more than 45 days) prior to the public hearing. Many jurisdictions with the state did not have adequate notice requirements but the City of Milton has since its incorporation. In fact, in regard to requests for rezonings, use permits and associated concurrent variances we have required more than the required notification of 300 feet from the subject property and we require 500 feet with or until a minimum of 75 owners are included. In addition, we conduct a Community Zoning Information Meeting (CZIM) which requires certain notification prior to the meeting.

**RZ23-02** – Memo for Text Amendment prepared for the City of Milton Planning Commission Meeting on July 26, 2023

On the last page, Staff has included a revised Flow Chart.

In practice, the Community Development Department has already been implementing the changes prior to the City adopting the new Zoning Procedures Law for all new applicable petitions.

**Community Zoning Information Meeting – April 25, 2023:** There was one member of the public who made comments/suggestions on the proposed text amendment.

**Planning Commission Meeting – May 24, 2023:** There was not a meeting based on the fact that there was not a quorum of the Planning Commission. Based on direction from the City Attorney, the item had to be re-advertised for the July Planning Commission meeting.

**Planning Commission Meeting – July 26, 2023:** Mr. Paul Frickey from the City Attorney’s office presented the proposed text amendment to the Commission with a change to name the Community Development Director authorized to accept service on behalf of the respondent if an appeal is submitted to Fulton County Superior Court instead of the Chairs of the various boards and commissions. This change has been reflected in the text amendment presented. There was no one in attendance from the public. The Planning Commission unanimously recommended approval of the ordinance with the proposed amendment presented by Mr. Frickey.

**Funding and Fiscal Impact:**

The required additional legal advertising will increase the line item for advertising from \$9,250 in FY 23 to \$11,713 in the upcoming FY24 budget. This is an increase of \$2,463.

**Alternatives:**

The Mayor and City Council may choose not to approve the proposed text amendment.

**Legal Review:**

Paul Frickey, Jarrard & Davis, July 2023

**Concurrent Review:**

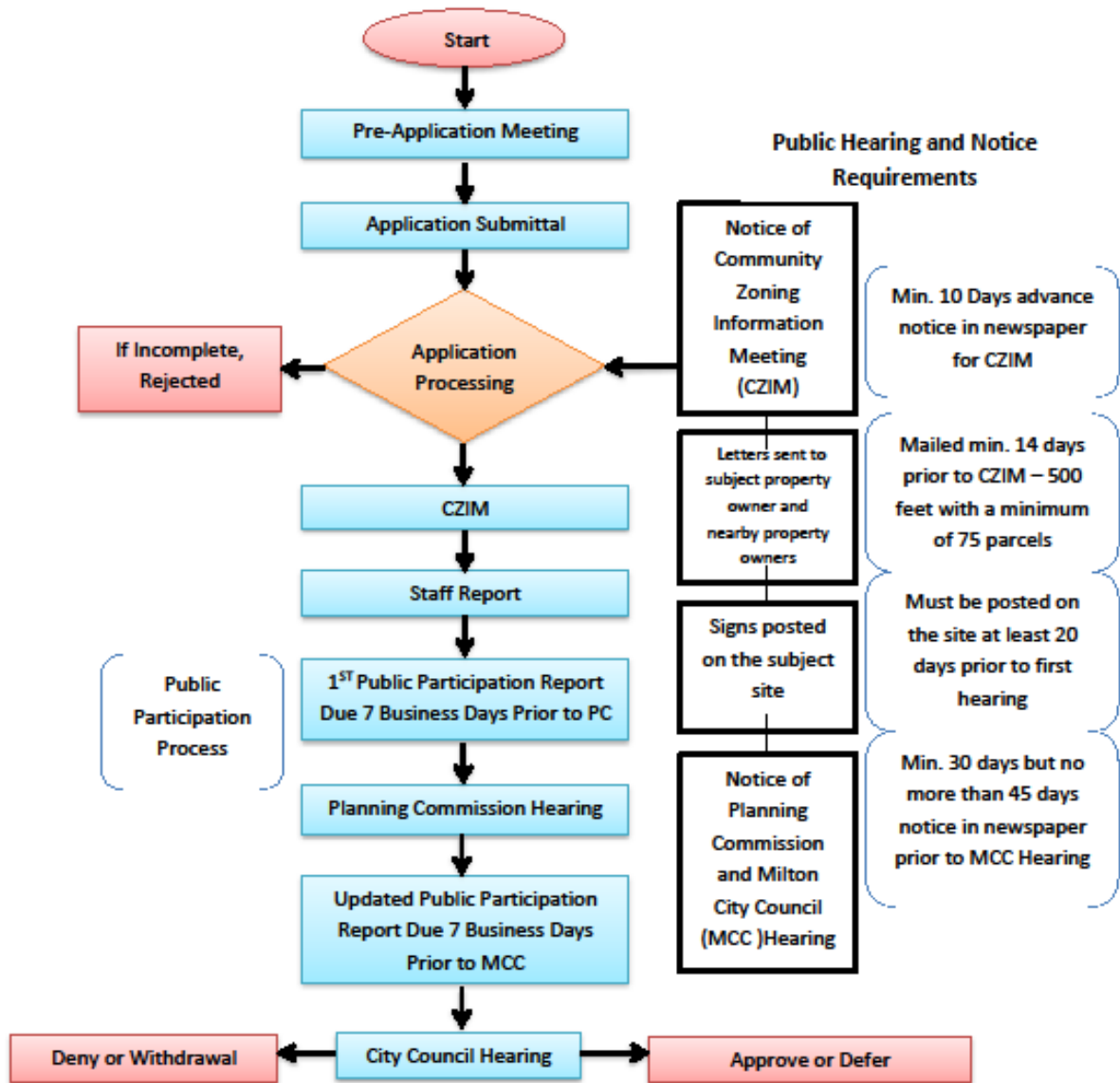
Steve Krokoff, City Manager

DocuSigned by:  
*Steven Krokoff*  
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**Attachment(s):**

Ordinance RZ23-02

### City of Milton Rezoning / Use Permit Flow Chart



Proposed Revision May 2023

STATE OF GEORGIA  
COUNTY OF FULTON

ORDINANCE NUMBER \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF MILTON, GEORGIA TO AMEND  
CHAPTER 64 OF THE CODE OF THE CITY OF MILTON, GEORGIA  
TO COMPLY WITH AMENDMENTS TO THE GEORGIA ZONING  
PROCEDURES LAW; TO PROVIDE FOR THE REPEAL OF  
CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE;  
AND FOR OTHER LAWFUL PURPOSES.**

**BE IT ORDAINED** by the City Council of the City of Milton, Georgia while in a regular Council meeting on September 6, 2023, at 6:00 PM as follows:

**WHEREAS**, pursuant to its Charter and other laws of the State of Georgia, the City of Milton, Georgia has the power to adopt clearly reasonable ordinances, resolutions and regulations for the protection and preservation of the public health, safety and welfare of its citizens; and

**WHEREAS**, Chapter 64 of the City of Milton Code of Ordinances regulates zoning within the City of Milton, and

**WHEREAS**, the Georgia Legislature adopted revisions to the Georgia Zoning Procedures Law (O.C.G.A. § 36-66-1, et seq. “ZPL”) establishing minimum procedures for the conduct and enforcement of zoning by local jurisdictions; and

**WHEREAS**, the revisions to the ZPL require local jurisdictions to meet certain minimum procedural requirements as part of their zoning ordinances; and

**WHEREAS**, the Mayor and Council have determined that it is in the best interest of the City’s residents to amend the Zoning Ordinance to satisfy the minimum requirements set forth in the State ZPL;

**NOW THEREFORE, THE COUNCIL OF THE CITY OF MILTON HEREBY ORDAINS** as follows:

**SECTION 1.**

Chapter 64 – Zoning, of the Code of the City of Milton, Georgia is hereby amended as follows:

Add a new Section 64-26 – Designated Officials for Appeal Proceedings to read:

- (a) In order to comply with O.C.G.A. § 36-66-5.1(c), the Community Development Director is authorized to issue appeal bonds and certificates of costs upon confirmation with City staff that such approvals are appropriate.
- (b) For purposes of appeals pursuant to Chapter 4, of Title 5 of the Official Code of Georgia Annotated, the Community Development Director is authorized to accept service on behalf

**RZ23-02** – Text Amendment prepared for the City of Milton Mayor and City Council Meeting on September 6, 2023 (First Presentation on August 21, 2023).



of the Respondent. The Community Development Director is authorized to accept service of process on behalf of the City as the defendant/opposite party.

Section 64-1022 is amended to add a new subsection (c) to read:

The Design Review Board shall conduct a public hearing with respect to each application for a certificate of endorsement before considering the application. The hearing shall be conducted according to the procedures established in Section 64-2082. Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ not less than 30 and not more than 45 days prior to the date set for the public hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system.

Add a new Section 64-1573 to read:

Any administrative permit decision under this Division of Article IX of Chapter 64 may be appealed in accord with the procedures set out for secondary variances in Article X of Chapter 64.

{Adult Bookstore Use Permits} Section 64-1655(c) is amended by deleting the subsection in its entirety and replacing it with the following:

*Processing.* The city shall have 90 days (unless the application is suspended by failure of the applicant to provide data, information or records as reasonably requested by the city and required by this Code, to complete the investigation) from receipt of a completed application for a use permit to make a decision in which to grant or deny a use permit. The community development department and the planning commission shall make recommendations to the city council regarding the approval or denial of the use permit and the council shall make the final decision after a public hearing regarding. **Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ not less than 30 and not more than 45 days prior to the date set for the public hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system. The public hearing shall be conducted according to the procedures established in Section 64-2082.** In the event the city council has not granted or denied the application within 90 days (unless the application is suspended by failure of the applicant to provide data, information or records as reasonably requested by the city to complete the investigation), the use permit shall automatically issue.

{Adult Entertainment Establishment Use Permits} Section 64-1677(c) is amended by deleting the subsection in its entirety and replacing it with the following:

*Processing.* The city shall have 90 days (unless the application is suspended by failure of the applicant to provide data, information or records as reasonably requested by the city and required by this Code, to complete the investigation) from receipt of a completed application for a use permit to make a decision in which to grant or deny a use permit. The community development department and the planning commission shall make

recommendations to the city council regarding the approval or denial of the use permit and the council shall make the final decision after a public hearing regarding the same. **Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ not less than 30 and not more than 45 days prior to the date set for the public hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system. The public hearing shall be conducted according to the procedures established in Section 64-2082.** In the event the city council has not granted or denied the application within 90 days (unless the application is suspended by failure of the applicant to provide data, information or records as reasonably requested by the city to complete the investigation), the use permit shall automatically issue.

Add the following language to the end of Section 64-1885: “Any administrative variance decision under this section may be appealed in accord with the procedures set out for secondary variances in Article X of Chapter 64.”

Add the following language to the end of Section 64-1886: “Any administrative minor variance decision under this section may be appealed in accord with the procedures set out for secondary variances in Article X of Chapter 64.”

Section 64-1887 is amended by deleting the second sentence and replacing it with: “Any minor variance decision under this section may be appealed in accord with the procedures set out for secondary variances in Article X of Chapter 64.”

Section 64-1940 is amended by adding new subsections (c) and (d) as follows:

(c) Any of the decisions described in subsection (b) above, may be appealed in accord with the procedures set out for secondary variances in Article X of Chapter 64.

(d) The public hearings conducted in accordance with the Subsection (a) above shall allow a minimum of 10 minutes for both proponents and opponents to present data, evidence and opinions.

Section 64-1942(a)(1) is amended by deleting “15 days” and replacing it with “30 days”.

Section 64-1942(a)(3) is amended by deleting the subsection in its entirety and replacing it with the following:

Notice of the public hearing shall be sent at least 30 days prior to the hearing date and shall be given by regular mail to the property owner and all property owners within 300 feet of the boundaries of the property who appear on the current tax records of Fulton County as retrieved by the city's geographic information system. Renotification is not required when a petition is deferred by the mayor and city council or the board of zoning appeals.

The mailing of public notices other than to the subject property owner, is not required when a secondary variance is sought by other than the property owner.

Section 64-2082(a) is amended by deleting the subsection in its entirety and replacing it with the following:

Before adopting any change to the zoning maps or text of the zoning ordinance, the mayor and city council shall hold a public hearing following a community zoning information meeting (CZIM) and a public hearing by the planning commission. **The public hearings held pursuant to this section shall allow a minimum of 10 minutes for both proponents and opponents to present data, evidence and opinions.**

Section 64-2082(c) is amended by deleting the subsection in its entirety and replacing it with the following:

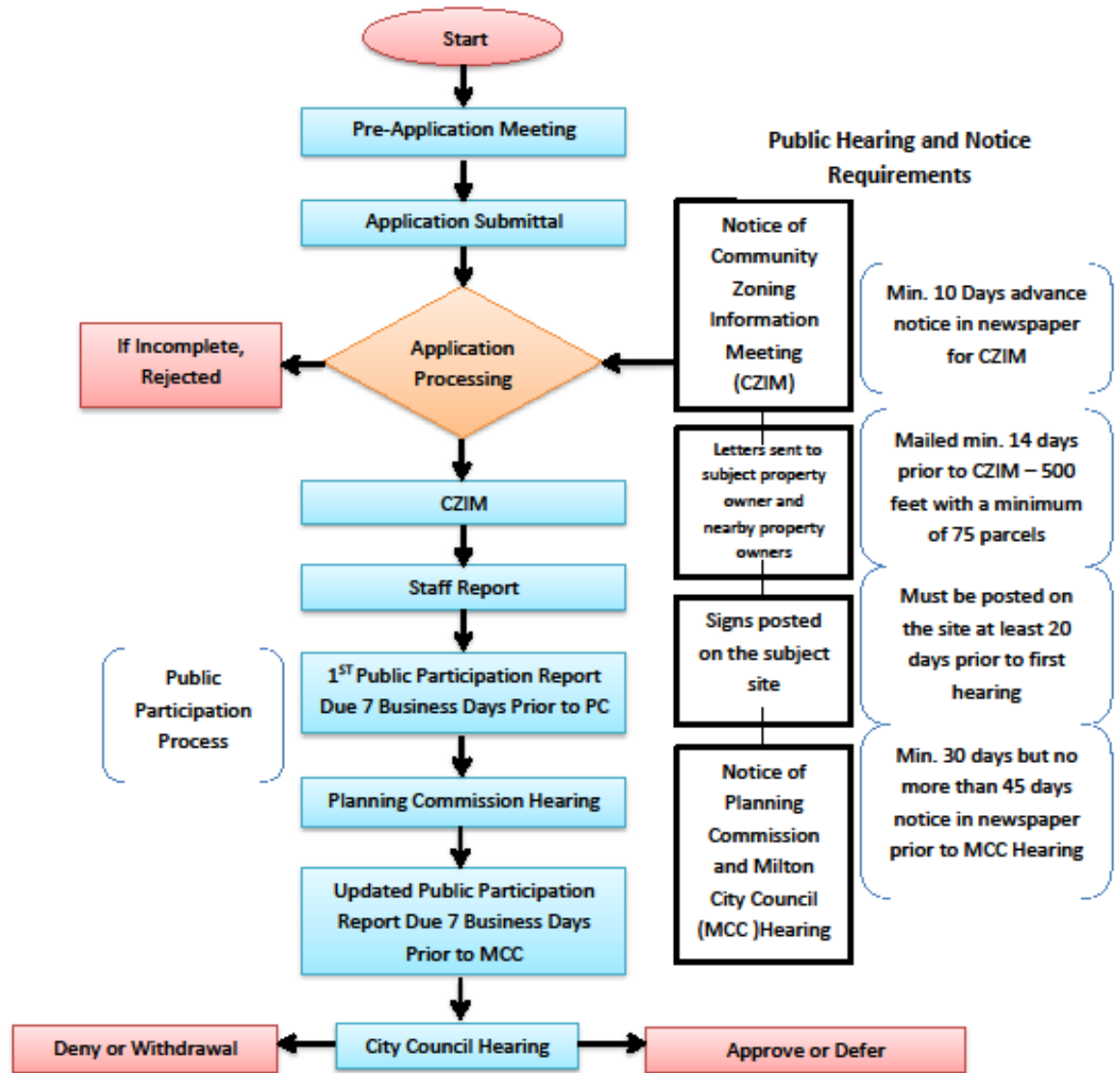
Notice of the public hearings held pursuant to this section shall be published in a newspaper of general circulation at least 30 days but not more than 45 days prior to the date of the public hearing. Renotification is not required when a petition is deferred by the mayor and city council.

Section 64-2082(g) is amended to add “the subject property owner and” immediately after “The department shall give notice by regular mail to”.

Section 64-2082(h) is amended by deleting the subsection in its entirety and replacing it with the following:

The hearing notices required by this section shall include the time, place and purpose of the hearing, and, where applicable, the notice shall also include the location of the property, the present zoning classification of the property and the proposed zoning classification, use permit, permit or other permission requested with respect to the property.

City of Milton Rezoning / Use Permit Flow Chart



RZ23-02 – Text Amendment prepared for the City of Milton Mayor and City Council Meeting on September 6, 2023 (First Presentation on August 21, 2023).

Add a new Section 64-2427 to read:

The Design Review Board shall conduct a public hearing with respect to each demolition permit application before considering the application. The hearing shall be conducted according to the procedures established in Section 64-2082. Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ not less than 30 and not more than 45 days prior to the date set for the public hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system.

Amend Section 64-2454(d)(3) by deleting the subsection in its entirety and replacing it with the following:

“The HPC and the Milton City Council shall hold a joint public hearing at a special or regular HPC meeting on any proposed ordinance for the designation of any historic district or property. Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ **not less than 30 and not more than 45 days prior to the date set for the public hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system. The public hearing shall be conducted according to the procedures established in Section 64-2082.**

Amend Section 64-2455(e) by deleting the subsection in its entirety and replacing it with the following:

*Public hearings on applications for certificates of appropriateness, notices, and right to be heard.* The HPC shall hold a public hearing at which each proposed certificate of appropriateness is discussed. **Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ not less than 30 and not more than 45 days prior to the hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system. The public hearing shall be conducted in accordance with the procedures set forth in Section 64-2082.** The HPC shall provide the property owner and/or applicant an opportunity to be heard at the certificate of appropriateness hearing.

**SECTION 2.** That all Ordinances, parts of Ordinances, or regulations in conflict herewith are hereby repealed.

**SECTION 3.** This Ordinance shall become effective upon a majority vote by the City Council as ratified by the Mayor of the City of Milton, Georgia.

**SO ORDAINED** this the 6<sup>th</sup> day of September 2023, the public’s health, safety, and welfare demanding it.

Approved:

\_\_\_\_\_  
Peyton Jamison, Mayor

Attest:

\_\_\_\_\_  
Tammy Lowit, City Clerk

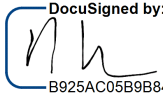


To: Honorable Mayor and City Council Members

From: Robert Buscemi RA, Community Development Director

Date: August 14, 2023, for September 6, 2023, Mayor and City Council Meeting (First Presentation – August 21, 2023)

Agenda Item: **RZ23-03** - A text amendment with respect to the following alcohol-related uses of Limited Food Service Restaurant and Limited Tap Establishment within Chapter 64, Zoning of the City of Milton City Code.

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**Department Recommendation:**

The Community Development Department recommends approval of the proposed text amendment.

**Executive Summary:**

The proposed creation of these two Use Permits and definitions are a result of providing the opportunity for the owners of these uses to have the ability to move physical locations if necessary. These types of uses are only currently permitted within the Crabapple Form Based Code area.

Please note that only establishments that were initially licensed on or before January 1, 2022, pursuant to Chapter 4, of the Milton Code of Ordinances will be considered.

**Community Zoning Information Meeting – April 25, 2023:** There was no one from the public who made comments/suggestions on the proposed text amendment.

**Planning Commission Meeting – May 24, 2023:** There was not a meeting based on the fact that there was not a quorum of the Planning Commission. Based on direction from the City Attorney, the item had to be re-advertised for the July Planning Commission meeting.

**Planning Commission Meeting – July 26, 2023:** The Planning Commission recommended that after adding the use “Limited Food Service Restaurant” under the Crabapple Form Based Code Standards and Tables, Table 9: Specific Function and Use remain “blank” across all Districts (By doing this, it would indicate that this use is not permitted in the City.). The Commission also

RZ23-03 – Text Amendment prepared for the Mayor and City Council Meeting on September 6, 2023 (First Presentation on August 21, 2023)

requested that Staff investigate when the last time the only previously approved “Limited Food Service Restaurant” paid excise taxes to the City. The City’s Finance Department’s indicates that the last time excise taxes were paid was in March of 2023.

The Commission unanimously recommended approval of the proposed text amendment as presented with Staff with the one change to leave the Table 9 for “Limited Food Service Restaurant” blank across all districts in the Table. Staff notes that by eliminating it as an allowed use, the proposed use permit is not needed. The proposed text amendment reflects these changes as recommended by the Planning Commission.

**Funding and Fiscal Impact:**

There is no impact on Funding or Fiscal Impact

**Alternatives:**

The Mayor and City Council may choose not to approve the proposed text amendment.

**Legal Review:**

Paul Frickey, Jarrard & Davis, July 2023

**Concurrent Review:**

Steve Krokoff, City Manager

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*Steven Krokoff*  
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**Attachments:**

Ordinance RZ23-03



STATE OF GEORGIA  
COUNTY OF FULTON

ORDINANCE NO. \_\_\_\_\_  
RZ23-03

**AN ORDINANCE TO AMEND CHAPTER 64, ZONING WITH RESPECT TO THE FOLLOWING ALCOHOL-RELATED USES OF LIMITED FOOD SERVICE RESTAURANT AND LIMITED TAP ESTABLISHMENT**

**BE IT ORDAINED** by the City Council of the City of Milton, GA while in a regularly called council meeting on September 6, 2023, at 6:00 p.m. as follows:

**SECTION 1.** That the amended Chapter 64, Zoning regarding alcohol related uses specifically Limited Food Service Restaurant and Limited Tap Establishment is hereby adopted and approved; and is attached hereto as if fully set forth therein; and

**SECTION 2.** That the amendments of Article XIX Crabapple Form Based Code and Article IX Administrative Permits and Use Permits are hereby adopted and approved; and are attached hereto as if fully set forth herein; and

**SECTION 3.** All ordinances, parts of ordinances, or regulations in conflict herewith are repealed; and

**SECTION 4.** That this Ordinance shall become effective upon its adoption.

**ORDAINED** this the 6<sup>th</sup> day of September 2023.

\_\_\_\_\_  
Peyton Jamison, Mayor

Attest:

\_\_\_\_\_  
Tammy Lowit, City Clerk

**Article XIX- Crabapple Form Based Code, Article 6- Definition of Terms**

Limited food service restaurant: any establishment that meets all of the requirements of a restaurant but does not meet the requirements of an eating establishment. A limited food service restaurant must derive at least 30 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

Limited tap establishment: any establishment that does not sell food prepared on the premises and that provides a limited selection of craft beer on tap for consumption on premises only. An establishment with a limited tap license is limited to having five or fewer malt beverage taps. Establishments with a limited tap license must limit consumption for any individual to a maximum of 48 ounces within a calendar day and must obtain approval from the fire marshal and building official in accordance with applicable codes.

**Article XIX – Crabapple Form Based Code, Article 5 – Standards and Tables, Table 9: Specific Function and Use.**

d. Retail

Limited Food Service Restaurant<sup>10</sup> – “U” – T5

Limited Tap Establishment<sup>10</sup> – “U” – T4-Open

10. No use permits will be considered unless the establishment was initially licensed on or before January 1, 2022, pursuant to Chapter 4, Article III, Division 3 of the Milton Code of Ordinances.

**Article IX – Administrative Permits and Use Permits**

**Sec. 64-1851 – Limited Food Service Restaurant**

(a) Required districts. Crabapple Form Based Code T-5

(b) Standards.

- (1) No outdoor amplified music shall be allowed.
- (2) No signage shall face residential uses.
- (3) Deliveries shall occur between 7:30 a.m. and 7:30 p.m.
- (4) Days and hours of operation shall be pursuant to chapter 4 of the Milton code of Ordinances.
- (5) Must derive a minimum of 30 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.
- (6) It may not operate as a nightclub as defined in chapter 4 of the Milton Code of Ordinances. Nightclubs are strictly prohibited.
- (7) Limited Food Service Restaurants shall not sell or offer to sell:
 
  - a. Any cannabidiol (CBD), vape products as described with the definition of vape shop in section 64-1 of the Milton Code of Ordinances, or any prohibited substances as defined in section 32-114 of the Milton Code of Ordinances.
  - b. Any games of chance including but not limited to those identified in O.C.G.A. § 50-27-3.
- (8) Coin-operated or amusement machines prohibited.

**Sec. 64-1852 – Limited Tap Establishment**

- (a) Required districts. Crabapple Form Based Code T4-Open and T-5
- (b) Standards.
  - (1) No outdoor amplified music shall be allowed.
  - (2) No signage shall face residential uses.
  - (3) Deliveries shall occur between 7:30 a.m. and 7:30 p.m.
  - (4) Days and hours of operation shall be pursuant to chapter 4 of the Milton code of Ordinances.
  - (5) May have five or fewer craft beer taps.
  - (6) Consumption is limited to 48 ounces for any individual within a calendar day.
  - (7) The establishment must obtain approval from the fire marshal and building official in accordance with applicable codes.
  - (8) Limited Tap Establishments shall not sell or offer to sell:
    - a. Any cannabidiol (CBD), vape products as described with the definition of vape shop in section 64-1 of the Milton Code of Ordinances, or any prohibited substances as defined in section 32-114 of the Milton Code of Ordinances.
    - b. Any games of chance including but not limited to those identified in O.C.G.A. § 50-27-3.
  - (9) Coin-operated or amusement machines prohibited.

**STAFF MEMO: GENERAL**

**TO:** Honorable Mayor and City Council Members

**FROM:** Robert Buscemi, Community Development Director 

**DATE:** Submitted on August 9, 2023 for the Monday, August 21, 2023 Regular City Council Meeting

**AGENDA ITEM:** Consideration of a Resolution Authorizing the Transmittal of a Draft Capital Improvements Element (CIE) 2023 Annual Update Relating to the City's Impact Fee Program to the Atlanta Regional Commission (ARC) for Regional and State Review.

**SUMMARY**

The City of Milton adopted a Development Impact Fee Ordinance on October 5, 2015. As a municipality that collects Impact Fees, the City is required by the Georgia Department of Community Affairs (DCA) to submit a Capital Improvements Element (CIE) Annual Update Report, specifically an annual financial report and a new fifth year schedule of project improvements. A draft Capital Improvements Element (CIE) 2023 Annual Update was prepared by the city's impact fee consultant and was reviewed by staff. The 2023 CIE Annual Update contains a financial report for Fiscal Year 2022 and a schedule of impact-fee eligible project improvements for 2024-2028 that is based on the adopted September 21, 2015 CIE.

This Resolution allows the City to transmit the draft CIE 2023 Annual Update to the Atlanta Regional Commission for Regional and State review. Upon approval by DCA, the City of Milton may adopt the 2023 CIE Annual Update. Adoption is anticipated to occur by October 31, 2023.

**DEPARTMENT RECOMMENDATION**

Approval of the Resolution Authorizing the Transmittal of a Draft CIE 2023 Annual Update.

**REVIEW & APPROVALS**

**Legal Review:** Ken Jarrard, Jarrard & Davis, LLP

**Concurrent Review:** Steven Krokoff, City Manager 

**Attachment(s):** Draft Capital Improvements Element (CIE) 2023 Annual Update for FY 2022 (10/1/21- 9/30/22; Resolution to Transmit the Draft Capital Improvements Element (CIE) 2023 Annual Update.

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STATE OF GEORGIA  
COUNTY OF FULTON

RESOLUTION NO.

**A RESOLUTION AUTHORIZING THE TRANSMITTAL OF A DRAFT CAPITAL IMPROVEMENTS ELEMENT 2023 ANNUAL UPDATE TO THE ATLANTA REGIONAL COMMISSION FOR REGIONAL AND STATE REVIEW**

**WHEREAS**, the City of Milton previously adopted a Capital Improvements Element as an amendment to the *Milton Comprehensive Plan*; and

**WHEREAS**, the City of Milton has prepared a 2023 Annual Update to the adopted Capital Improvements Element, which incorporates an impact fee financial report for FY 2022; and

**WHEREAS**, the draft Capital Improvements Element 2023 Annual Update was prepared in accordance with the "Development Impact Fee Compliance Requirements" and the "Minimum Planning Standards and Procedures for Local Comprehensive Planning" adopted by the Department of Community Affairs pursuant to the Georgia Planning Act of 1989, and a duly advertised Public Hearing was held on August 21, 2023, at 6:00 p.m. in the City of Milton City Hall, 2006 Heritage Walk;

**BE IT THEREFORE RESOLVED** that the City Council does hereby authorize the transmittal of the draft Capital Improvements Element 2023 Annual Update (a copy of which is attached hereto as Exhibit "A") to the Atlanta Regional Commission for Regional and State review, as per the requirements of the Development Impact Fee Compliance Requirements adopted pursuant to the Georgia Planning Act of 1989.

**RESOLVED** this 21<sup>st</sup> day of August, 2023.

\_\_\_\_\_  
Peyton Jamison, Mayor

Attest:

\_\_\_\_\_  
Tammy Lowit, City Clerk



To: Honorable Mayor and City Council Members  
 From: Karen Ellis, Finance Director  
 Date: Submitted on August 11, 2023 for the August 21, 2023 Regular Council Meeting  
 Agenda Item: Consideration of the Issuance of an Alcohol Beverage License to BevShop LLC dba Beverage Shop, 13800 Hwy 9 N, Suite S, Milton, Georgia 30004

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**Department Recommendation:**

Approve the issuance of an alcohol beverage license for BevShop LLC dba Beverage Shop for Retail Package - Wine, Malt Beverages, Distilled Spirits, Resident Caterer and Sunday Sales.

**Executive Summary:**

City of Milton Code of Ordinances Chapter 4 allows for the issuance of alcohol beverage licenses to businesses that properly submit application for and meet all the legal requirements to hold such license. This application is submitted due to the sale of the restaurant to a new owner.

Staff has processed the application, has placed advertisements for 8/10/2023 and 8/17/2023 and recommends issuance of the applicable license for:

- Business Name:** BevShop LLC dba Beverage Shop
- Contact Name:** Amandeep Mavi
- Business Address:** 13800 Hwy 9 N, Suite S, Milton, Georgia 30004
- Type of License:** Retail Package – Wine, Malt Beverages, Distilled Spirits, Resident Caterer and Sunday Sales

**Funding and Fiscal Impact:**

There is a positive fiscal impact of license fees and/or monthly excise taxes.

**Alternatives:**

None.

**Legal Review:**

Not required.

**Concurrent Review:**

Steven Krokoff, City Manager

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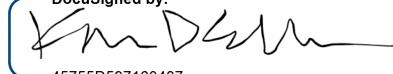
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To: Honorable Mayor and City Council Members  
 From: Karen Ellis, Finance Director  
 Date: Submitted on August 11, 2023 for the August 21, 2023 Regular Council Meeting  
 Agenda Item: Consideration of the Issuance of an Alcohol Beverage License to Whitetail Bicycles Inc, 1885 Heritage Walk, Milton, Georgia 30004

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**Department Recommendation:**

Approve the issuance of an alcohol beverage license for Whitetail Bicycles Inc. for Limited Tap Consumption On-Premises.

**Executive Summary:**

City of Milton Code of Ordinances Chapter 4 allows for the issuance of alcohol beverage licenses to businesses that properly submit application for and meet all the legal requirements to hold such license. This application is submitted due to business moving to a new location.

Staff has processed the application, has placed advertisements for 8/10/2023 and 8/17/2023 and recommends issuance of the applicable license for:

- Business Name:** Whitetail Bicycles Inc.
- Contact Name:** Shaune Huysamen
- Business Address:** 1885 Heritage Walk, Milton, Georgia 30004
- Type of License:** Limited Tap - Consumption On-Premises

**Funding and Fiscal Impact:**

There is a positive fiscal impact of license fees and/or monthly excise taxes.

**Alternatives:**

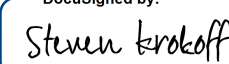
None.

**Legal Review:**

Not required.

**Concurrent Review:**

Steven Krokoff, City Manager

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**STAFF MEMO: GENERAL**

**TO:** Honorable Mayor and City Council Members  
**FROM:** Bernadette Harvill, Deputy City Manager  
**DATE:** Submitted on August 2, 2023 for the August 7, 2023 Regular Council Meeting, August 14, 2023 Special Called Council Meeting, and August 21, 2023 Regular Council Meeting

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*Bernadette Harvill*  
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**AGENDA ITEM:** Consideration of an Ordinance of the Mayor and Council of the City of Milton, Georgia, to Establish the Ad Valorem Tax Rate of the City of Milton for Fiscal Year 2024; and for Other Purposes.

**Executive Summary:**

The City has advertised and enclosed an ordinance based on a Maintenance and Operating (M&O) millage rate of 4.469 mills, which represents the City's current millage rate for Fiscal Year 2023). This approach allows Council to consider any millage rate up to the existing millage rate under the current advertisement rules outlined by the State (consideration of a millage rate above the current 4.469 mills will require additional advertising and public hearings).

Staff will be presenting alternative reduced millage rate options below the existing 4.469 mills at three public hearing presentations along with a discussion of the draft FY 2024 budget at the August 14, 2023 Work Session. A final ordinance will be drafted based on the approved millage rate at the August 21, 2023 Regular City Council Meeting.

Staff has also calculated a bond millage rate of 0.364 mills for the General Obligation Bond, Series 2017 (i.e. greenspace bond) that was approved through referendum on the November 2016 ballot. This will cover the seventh year of debt service payments totaling \$1,710,125 and is separate from the M&O revenue projections enclosed.

The Fulton County consolidation and evaluation of digest for tax year 202 reflects taxable assessments for real and personal property at \$3,599,173,366 net of exemptions (please note HB710 passed in 2018 created a new floating exemption based on the consumer price index for properties with a current homestead exemption including the primary residence and five (5) contiguous acres of land which has more than doubled the City's exemptions).

The State of Georgia requires two calculations when comparing year over year tax collection rates. The calculation of percentage increase/decrease in property taxes involves the calculation of a rollback rate. The rollback rate takes reassessments of existing real property and other net changes to the digest, such as new construction, into consideration (please see advertisement #1 enclosed). According to this calculation, maintaining a 4.469 M&O millage rate represents an increase of 1.82% from the updated 2022 digest figures provided by Fulton



County. The main factor causing this increase is the reassessment of existing real property and the related impact of the floating exemption calculation related to these reassessments.

The second calculation (advertisement #2 enclosed) represents the five-year history of levy. This formula compares taxes levied year over year without consideration of the impacts related directly to reassessments of existing real property. The result is a 11.6% increase year over year levy anticipation (based on a 100% collection rate) for the 2023 tax year when compared to the updated figures for 2022.

Motor vehicle assessed values in 2023 are \$8,740,350 and have decreased by 6.5% since 2022. This decline is a result of HB386, which is phasing out motor vehicle taxes (or the "birthday tax") and replacing it with the title ad valorem tax (TAVT). The TAVT is a one-time title fee that is paid on all vehicle sales. It is not a property tax and is, therefore, not included in the tax digest.

**Funding and Fiscal Impact:**

For each millage rate option, the projected amount of property taxes to be levied for M&O purposes can be seen below in the 100% collection rate column and the year one forecasted collections based on historical trend can be seen in the 97% column for real property and the 65% column for personal property.

**Real Property - Projected Revenues by Millage Rate**

Millage Rate	Collection Rate	
	100%	97%
4.469	15,706,232	15,235,045
4.395	15,446,160	14,982,775
4.389	15,425,073	14,962,321

**Personal Property – Projected Revenues by Millage Rate**

Millage Rate	Collection Rate	
	100%	65%
4.469	300,352	195,229
4.395	295,379	191,996
4.389	294,976	191,734

Historically, Milton has experienced a collection rate of approximately 97% of the projected real property digest and 65% of the projected personal property digest in year one of collections.

**Alternatives:** Other Council directed action.

**Legal Review:** Not required.

**Concurrent Review:** Steve Krokoff, City Manager

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**Appendix A FEES AND OTHER CHARGES<sup>1</sup>**

FEES AND OTHER CHARGES

Chapter 52—Taxation			
52-19(b)	Ad valorem taxes on property	For property subject to the ad valorem tax	\$ <del>4.9214.833</del> on 40 percent of each \$1,000.00 of property (general government purposes at \$4.469 and retiring outstanding general obligation bonds at \$ <del>0.4520.364</del> )
52-22(b)	Penalties and interest for the delinquent of the ad valorem taxes	For property subject to the ad valorem tax	A penalty of 5% is applied to the amount of tax due if not paid within 120 days of the bill date. After 120 days from the imposition of the initial penalty, an additional 5% of any tax amount remaining due shall be imposed. This will continue every 120 days not to exceed 20% of the principal amount of the tax originally due. The penalty shall not apply to the following: (1) Ad valorem taxes of \$500.00 or less on homesteaded property;

<sup>1</sup>Editor's note(s)—Section 1 of Ord. No. 12-09-147, adopted Sept. 17, 2012, repealed the former App. A, and enacted a new App. A as set out herein. The former App. A pertained to similar subject matter, and derived from Ord. No. 11-12-120, adopted Dec. 5, 2011. See the Code Comparative Table for a complete derivation.

			<p>(2) Homesteaded property acquired during the tax year by a new owner who did not receive a bill and who before acquiring such property resided outside the State of GA and if taxes are paid within one year following the due date.</p> <p>Interest on delinquent taxes due shall be calculated at an annual rate equal to the bank prime loan rate as posted by the board of governors of the Federal Reserve System in statistical release H.15 or any publication that may supersede it, plus 3%, to accrue monthly.</p>
52-46	Penalty for delinquent payment	For hotel and motel tax	Penalties of 10% of amount of taxes due to the city, plus 1% interest per month on the unpaid tax
52-47	Hotel and motel excise tax	For hotel and motel rent	3% of the rent for every occupancy of a guestroom in a hotel in the city
52-94 (a)(1)	Rental motor vehicle excise tax	For motor vehicle rented	3% of the rental charge. If paid on or before the 20th day of the preceding calendar month, the tax payer may retain a credit in the

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Appendix A FEES AND OTHER CHARGES

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			amount of 3% of the tax due.
52-116	Penalties and interest for failure to remit taxes	For rental motor vehicle excise tax	A penalty of 5% of the tax then due, plus 1% interest per month thereon the unpaid principal amount due
52-118(b)	Interest on the deficiency determined	For excise tax	1% per month or fraction thereof from the due date of the taxes

**Sec. 52-19. Levied.**

(a) *Authority.*Section 1.12(40) of the city Charter authorizes the city to levy and provide the assessment and collection of ad valorem taxes on all property subject to taxation.

(b) [*Rate.*] The ad valorem tax rate for the City of Milton, Georgia for the 202~~14~~ fiscal year, on property subject to ad valorem taxation by the city is hereby fixed at \$~~4,9214.833~~ on 40 percent of each \$1,000.00 of property subject to ad valorem tax by the city.

(Ord. No. 08-08-22, § I, 8-11-2008; Ord. No. 09-09-52, § I, 9-28-2009; Ord. No. 18-08-371 , § I, 8-13-2018; Ord. No. 19-08-401 , § I, 8-12-2019; Ord. No. 20-08-443 , § I, 8-10-2020)

**Sec. 52-20. To be used for general governmental purposes.**

(a) For general government purposes \$4.469 on 40 percent of each \$1,000.00 of taxable property.

(b) For the purpose of retiring outstanding General Obligation bonds, \$~~0.4520.364~~ on 40 percent of each \$1,000.00 of taxable property.

(Ord. No. 08-08-22, § II, 8-11-2008; Ord. No. 09-09-52, § II, 9-28-2009; Ord. No. 18-08-371 , § II, 8-13-2018; Ord. No. 19-08-401 , § II, 8-12-2019; Ord. No. 20-08-443 , § II, 8-10-2020)

**STATE OF GEORGIA  
COUNTY OF FULTON**

**ORDINANCE NO.**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF  
MILTON, GEORGIA, TO ESTABLISH THE AD VALOREM TAX RATE OF  
THE CITY OF MILTON FOR FISCAL YEAR 2024; AND FOR OTHER  
PURPOSES**

**WHEREAS**, the Charter of the City of Milton, Georgia authorizes the City to levy and provide for the assessment of ad valorem property taxes on all property subject to taxation; and

**WHEREAS**, the Charter of the City of Milton, Georgia provides that the valuation of all property subject to taxation by the City shall be determined according to the tax digest prepared by the Fulton County Board of Tax Assessors; and

**WHEREAS**, the Mayor and City Council, after hearing and after duly considering all such relevant evidence, testimony and public comments, has determined that it is in the best interests of, and necessary to meet the expenses and obligations of, the City of Milton, Georgia to set a levy in the amount of \$4.833 on each \$1,000.00 of taxable value for all property subject to ad valorem taxation by the City; now

**BE IT ORDAINED** by the Mayor and City Council of the City of Milton, Georgia as follows:

**SECTION I:** The ad valorem tax rate for the City of Milton, Georgia for the 2024 fiscal year, on property subject to ad valorem taxation by the City is hereby fixed at \$4.833 on forty percent (40%) of each \$1,000.00 of property subject to ad valorem tax by the City.

**SECTION II:** Said rate of \$4.833 on forty percent (40%) of each \$1,000.00 of taxable property is hereby levied as follows:

- (a) For General Government purposes \$4.469 on forty percent (40%) of each \$1,000.00 of taxable property.
- (b) For the purpose of retiring outstanding General Obligation bonds, \$0.364 on forty percent (40%) of each \$1,000.00 of taxable property.

**SECTION III:** All ordinances and parts of ordinances in conflict herewith are hereby repealed.

**ORDAINED** this the \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Peyton Jamison, Mayor

Attest:

\_\_\_\_\_  
Tammy Lowit, City Clerk

(SEAL)





**STAFF MEMO: GENERAL**

**TO:** Honorable Mayor and City Council Members  
**FROM:** Bernadette Harvill, Deputy City Manager  
**DATE:** Submitted on August 2, 2023 for the August 7, 2023 Regular Council Meeting, August 14, 2023 Special Called Council Meeting, and August 21, 2023 Regular Council Meeting

DocuSigned by:  
*Bernadette Harvill*  
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**AGENDA ITEM:** Consideration of an Ordinance of the Mayor and Council of the City of Milton, Georgia, to Establish the Ad Valorem Tax Rate of the City of Milton for Fiscal Year 2024; and for Other Purposes.

**Executive Summary:**

The City has advertised and enclosed an ordinance based on a Maintenance and Operating (M&O) millage rate of 4.469 mills, which represents the City's current millage rate for Fiscal Year 2023). This approach allows Council to consider any millage rate up to the existing millage rate under the current advertisement rules outlined by the State (consideration of a millage rate above the current 4.469 mills will require additional advertising and public hearings).

Staff will be presenting alternative reduced millage rate options below the existing 4.469 mills at three public hearing presentations along with a discussion of the draft FY 2024 budget at the August 14, 2023 Work Session. A final ordinance will be drafted based on the approved millage rate at the August 21, 2023 Regular City Council Meeting.

Staff has also calculated a bond millage rate of 0.364 mills for the General Obligation Bond, Series 2017 (i.e. greenspace bond) that was approved through referendum on the November 2016 ballot. This will cover the seventh year of debt service payments totaling \$1,710,125 and is separate from the M&O revenue projections enclosed.

The Fulton County consolidation and evaluation of digest for tax year 202 reflects taxable assessments for real and personal property at \$3,599,173,366 net of exemptions (please note HB710 passed in 2018 created a new floating exemption based on the consumer price index for properties with a current homestead exemption including the primary residence and five (5) contiguous acres of land which has more than doubled the City's exemptions).

The State of Georgia requires two calculations when comparing year over year tax collection rates. The calculation of percentage increase/decrease in property taxes involves the calculation of a rollback rate. The rollback rate takes reassessments of existing real property and other net changes to the digest, such as new construction, into consideration (please see advertisement #1 enclosed). According to this calculation, maintaining a 4.469 M&O millage rate represents an increase of 1.82% from the updated 2022 digest figures provided by Fulton

County. The main factor causing this increase is the reassessment of existing real property and the related impact of the floating exemption calculation related to these reassessments.

The second calculation (advertisement #2 enclosed) represents the five-year history of levy. This formula compares taxes levied year over year without consideration of the impacts related directly to reassessments of existing real property. The result is a 11.6% increase year over year levy anticipation (based on a 100% collection rate) for the 2023 tax year when compared to the updated figures for 2022.

Motor vehicle assessed values in 2023 are \$8,740,350 and have decreased by 6.5% since 2022. This decline is a result of HB386, which is phasing out motor vehicle taxes (or the "birthday tax") and replacing it with the title ad valorem tax (TAVT). The TAVT is a one-time title fee that is paid on all vehicle sales. It is not a property tax and is, therefore, not included in the tax digest.

**Funding and Fiscal Impact:**

For each millage rate option, the projected amount of property taxes to be levied for M&O purposes can be seen below in the 100% collection rate column and the year one forecasted collections based on historical trend can be seen in the 97% column for real property and the 65% column for personal property.

**Real Property - Projected Revenues by Millage Rate**

Millage Rate	Collection Rate	
	100%	97%
4.469	15,706,232	15,235,045
4.395	15,446,160	14,982,775
4.389	15,425,073	14,962,321

**Personal Property – Projected Revenues by Millage Rate**

Millage Rate	Collection Rate	
	100%	65%
4.469	300,352	195,229
4.395	295,379	191,996
4.389	294,976	191,734

Historically, Milton has experienced a collection rate of approximately 97% of the projected real property digest and 65% of the projected personal property digest in year one of collections.

**Alternatives:** Other Council directed action.

**Legal Review:** Not required.

**Concurrent Review:** Steve Krokoff, City Manager

DocuSigned by:  
*Steven Krokoff*  
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## Appendix A FEES AND OTHER CHARGES<sup>1</sup>

### FEES AND OTHER CHARGES

Chapter 52—Taxation			
52-19(b)	Ad valorem taxes on property	For property subject to the ad valorem tax	\$ <del>4.9214.833</del> on 40 percent of each \$1,000.00 of property (general government purposes at \$4.469 and retiring outstanding general obligation bonds at \$ <del>0.4520.364</del> )
52-22(b)	Penalties and interest for the delinquent of the ad valorem taxes	For property subject to the ad valorem tax	A penalty of 5% is applied to the amount of tax due if not paid within 120 days of the bill date. After 120 days from the imposition of the initial penalty, an additional 5% of any tax amount remaining due shall be imposed. This will continue every 120 days not to exceed 20% of the principal amount of the tax originally due. The penalty shall not apply to the following: (1) Ad valorem taxes of \$500.00 or less on homesteaded property;

<sup>1</sup>Editor's note(s)—Section 1 of Ord. No. 12-09-147, adopted Sept. 17, 2012, repealed the former App. A, and enacted a new App. A as set out herein. The former App. A pertained to similar subject matter, and derived from Ord. No. 11-12-120, adopted Dec. 5, 2011. See the Code Comparative Table for a complete derivation.

			<p>(2) Homesteaded property acquired during the tax year by a new owner who did not receive a bill and who before acquiring such property resided outside the State of GA and if taxes are paid within one year following the due date.</p> <p>Interest on delinquent taxes due shall be calculated at an annual rate equal to the bank prime loan rate as posted by the board of governors of the Federal Reserve System in statistical release H.15 or any publication that may supersede it, plus 3%, to accrue monthly.</p>
52-46	Penalty for delinquent payment	For hotel and motel tax	Penalties of 10% of amount of taxes due to the city, plus 1% interest per month on the unpaid tax
52-47	Hotel and motel excise tax	For hotel and motel rent	3% of the rent for every occupancy of a guestroom in a hotel in the city
52-94 (a)(1)	Rental motor vehicle excise tax	For motor vehicle rented	3% of the rental charge. If paid on or before the 20th day of the preceding calendar month, the tax payer may retain a credit in the

- THE CODE OF THE  
Appendix A FEES AND OTHER CHARGES

Section 11, Item A.

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			amount of 3% of the tax due.
52-116	Penalties and interest for failure to remit taxes	For rental motor vehicle excise tax	A penalty of 5% of the tax then due, plus 1% interest per month thereon the unpaid principal amount due
52-118(b)	Interest on the deficiency determined	For excise tax	1% per month or fraction thereof from the due date of the taxes

**Sec. 52-19. Levied.**

- (a) *Authority.*Section 1.12(40) of the city Charter authorizes the city to levy and provide the assessment and collection of ad valorem taxes on all property subject to taxation.
- (b) [*Rate.*] The ad valorem tax rate for the City of Milton, Georgia for the 202~~14~~ fiscal year, on property subject to ad valorem taxation by the city is hereby fixed at \$~~4.9214.833~~ on 40 percent of each \$1,000.00 of property subject to ad valorem tax by the city.

(Ord. No. 08-08-22, § I, 8-11-2008; Ord. No. 09-09-52, § I, 9-28-2009; Ord. No. 18-08-371 , § I, 8-13-2018; Ord. No. 19-08-401 , § I, 8-12-2019; Ord. No. 20-08-443 , § I, 8-10-2020)

**Sec. 52-20. To be used for general governmental purposes.**

- (a) For general government purposes \$4.469 on 40 percent of each \$1,000.00 of taxable property.
- (b) For the purpose of retiring outstanding General Obligation bonds, \$~~0.4520.364~~ on 40 percent of each \$1,000.00 of taxable property.

(Ord. No. 08-08-22, § II, 8-11-2008; Ord. No. 09-09-52, § II, 9-28-2009; Ord. No. 18-08-371 , § II, 8-13-2018; Ord. No. 19-08-401 , § II, 8-12-2019; Ord. No. 20-08-443 , § II, 8-10-2020)

**STATE OF GEORGIA  
COUNTY OF FULTON**

**ORDINANCE NO.**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF MILTON, GEORGIA, TO ESTABLISH THE AD VALOREM TAX RATE OF THE CITY OF MILTON FOR FISCAL YEAR 2024; AND FOR OTHER PURPOSES**

**WHEREAS,** the Charter of the City of Milton, Georgia authorizes the City to levy and provide for the assessment of ad valorem property taxes on all property subject to taxation; and

**WHEREAS,** the Charter of the City of Milton, Georgia provides that the valuation of all property subject to taxation by the City shall be determined according to the tax digest prepared by the Fulton County Board of Tax Assessors; and

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**SECTION III:** All ordinances and parts of ordinances in conflict herewith are hereby repealed.



**ORDAINED** this the \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Peyton Jamison, Mayor

Attest:

\_\_\_\_\_  
Tammy Lowit, City Clerk

(SEAL)

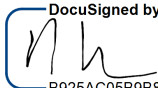


To: Honorable Mayor and City Council Members

From: Robert Buscemi, Community Development Director

Date: Submitted on August 14, 2023 for the **August 21, 2023** Regular Council Meeting

Agenda Item: Consideration of Final Plats

DocuSigned by:  
  
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**Department Recommendation:**

To approve the final plat as stated below.

**Executive Summary:**

The Milton Subdivision Regulations require that the Mayor and City Council approve all Final Plats, final Plat Re-recording, Revisions and Minor Plats once the matter has been reviewed and certified by the Community Development Director in accordance with the Subdivision Regulations.

- 1. The Final Plat for **Whisper Woods** described herein consists of **5** lots on **11.492** acres located on New Providence Road. This is a gated development with lots ranging in size from 1.208 to 2.630 acres and a separate lot dedicated for stormwater detention.

**Funding and Fiscal Impact:**

None.

**Alternatives:**

Do not approve.

**Legal Review:**

None – not required.



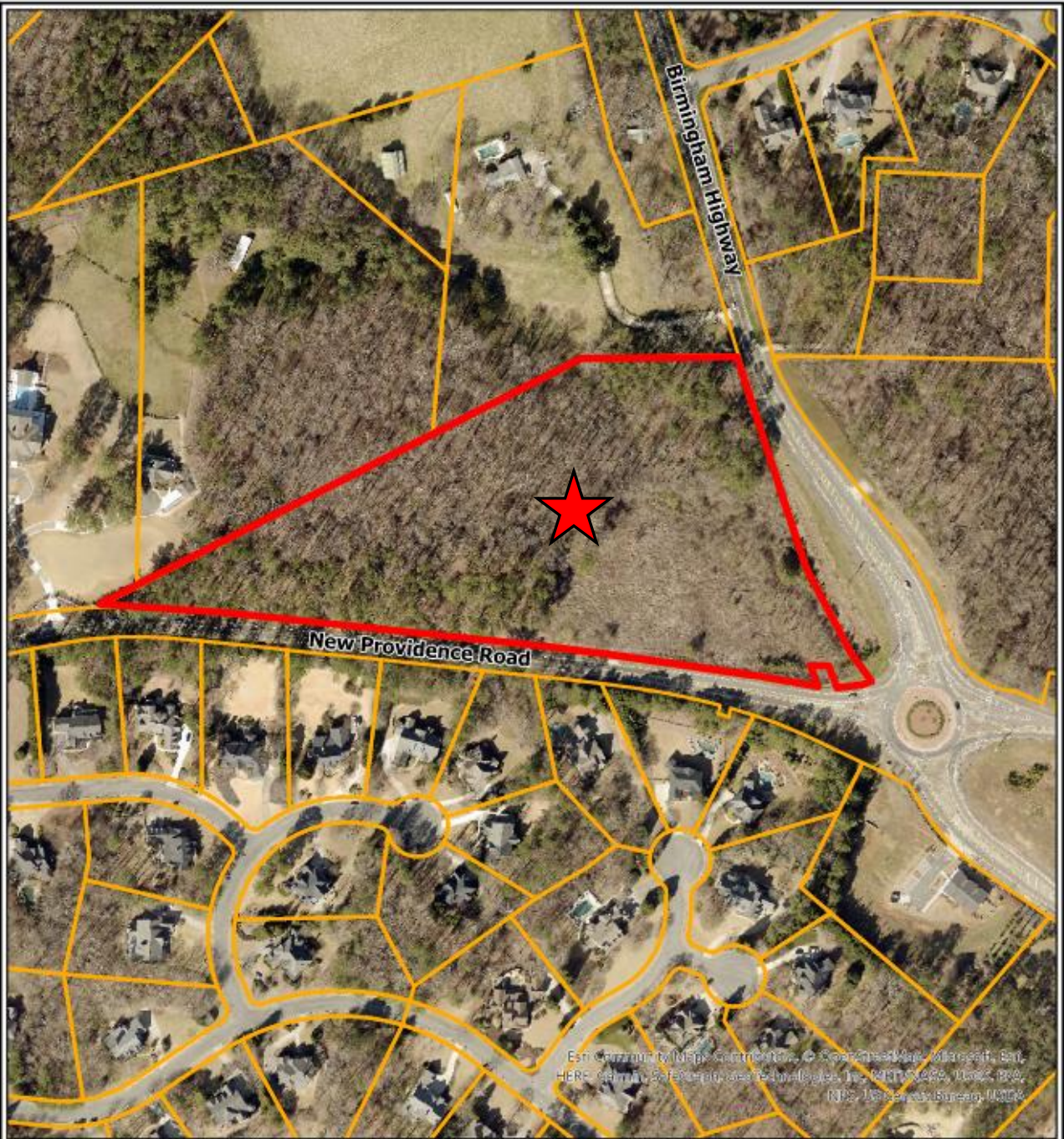
**Concurrent Review:**  
Steven Krokoff, City Manager

DocuSigned by:  
*Steven Krokoff*  
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**Attachment(s):**  
Plat List, Location Map, Plats

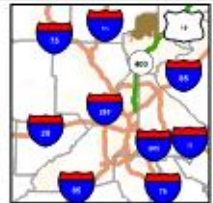
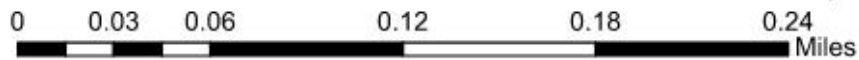
Name of Development / Location	Action	Comments / # lots	Total Acres	Density
<p><b>Whisper Woods</b> New Providence Road LL 847 &amp; 848 Dist. 2 Sec. 2</p>	<p><b>Final Plat</b></p>	<p>5 Single-Family Lots</p>	<p><b>11.492</b> Acres</p>	<p><b>0.44</b> Lots /Acre</p>

**Whisper Woods** - Location Map



**Whisper Woods  
Final Plat**

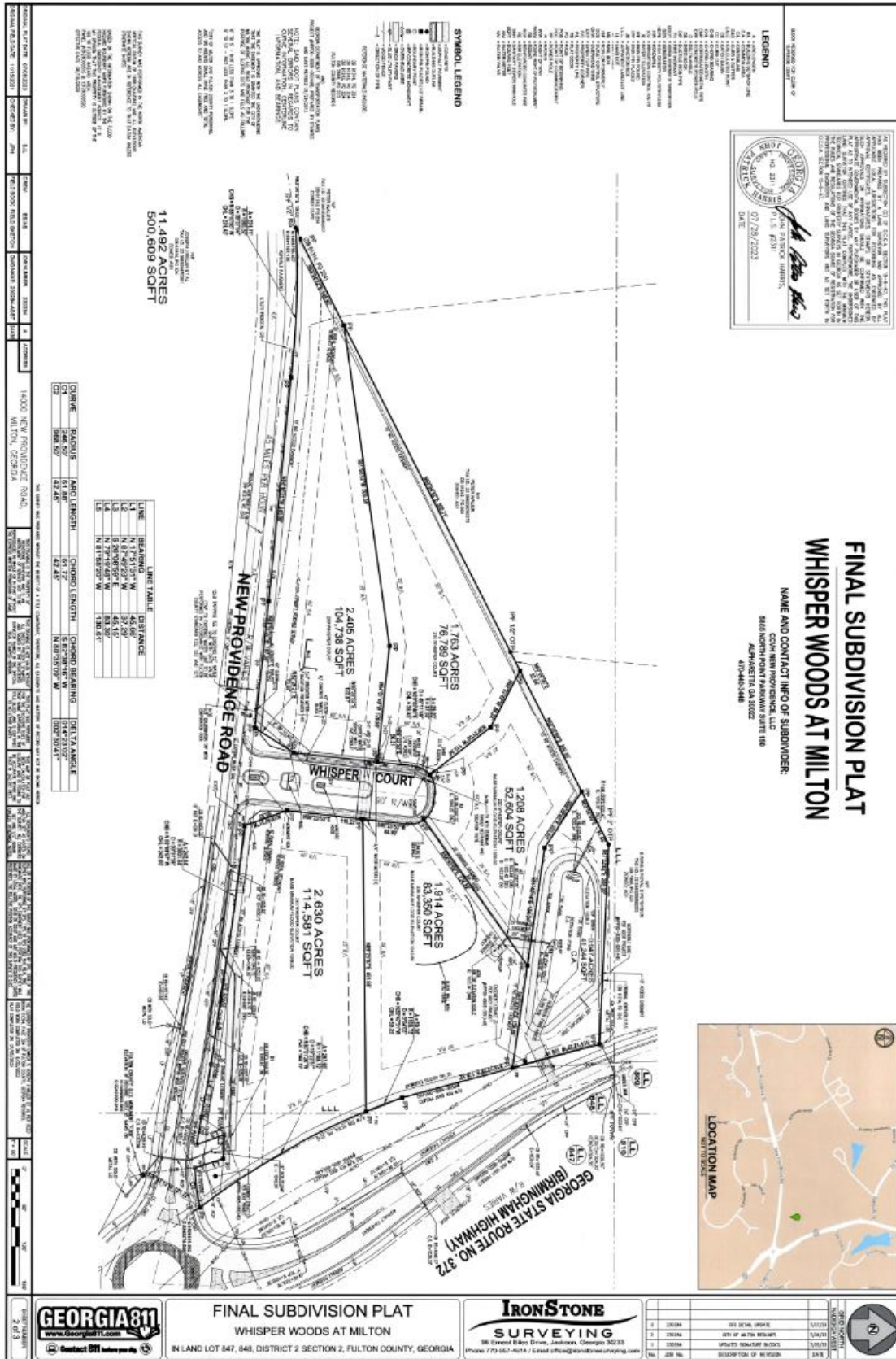
City of Milton  
2023



MILTON



**Whisper Woods**



Whisper Woods

**NAME AND CONTACT INFO OF SUBDIVIDER:**  
 COHN NEW PRODUCE, LLC  
 5865 NORTH POINT PARKWAY, SUITE 156  
 ALPHARETTA, GA 30022  
 470-402-5848

**FINAL SUBDIVISION PLAT**  
**WHISPER WOODS AT MILTON**  
 CITY OF MILTON, FULTON COUNTY, GEORGIA  
 UNDERGROUND STORM WATER CALCULATION

**100 YEAR STORM:**

STATION	INLET	OUTLET	PIPE	PIPE DIAMETER	PIPE LENGTH	PIPE MATERIAL	PIPE SLOPE	INLET ELEVATION	OUTLET ELEVATION	INLET FLOW	OUTLET FLOW	INLET LOSS	OUTLET LOSS
1+00	1+00	1+00	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
1+10	1+10	1+10	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
1+20	1+20	1+20	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
1+30	1+30	1+30	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
1+40	1+40	1+40	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
1+50	1+50	1+50	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
1+60	1+60	1+60	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
1+70	1+70	1+70	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
1+80	1+80	1+80	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
1+90	1+90	1+90	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
2+00	2+00	2+00	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
2+10	2+10	2+10	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
2+20	2+20	2+20	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
2+30	2+30	2+30	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
2+40	2+40	2+40	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
2+50	2+50	2+50	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
2+60	2+60	2+60	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
2+70	2+70	2+70	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
2+80	2+80	2+80	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
2+90	2+90	2+90	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
3+00	3+00	3+00	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
3+10	3+10	3+10	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
3+20	3+20	3+20	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
3+30	3+30	3+30	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
3+40	3+40	3+40	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
3+50	3+50	3+50	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
3+60	3+60	3+60	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
3+70	3+70	3+70	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
3+80	3+80	3+80	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
3+90	3+90	3+90	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00
4+00	4+00	4+00	4" DIA. 4" DIA.	10'	10'	CONCRETE	0.01	100.00	100.00	0.00	0.00	0.00	0.00

**AS-BUILT STORM PROFILES**

**AS-BUILT WEIR BOX - 4 FEET INSIDE DIAMETER CONCRETE BOX**

**LOCATION MAP**

**REVISIONS**

NO.	DATE	DESCRIPTION OF REVISION
1	03/20/23	ISS. INITIAL SPECS
2	03/20/23	ISS. INITIAL SPECS
3	03/20/23	ISS. INITIAL SPECS
4	03/20/23	ISS. INITIAL SPECS
5	03/20/23	ISS. INITIAL SPECS
6	03/20/23	ISS. INITIAL SPECS
7	03/20/23	ISS. INITIAL SPECS
8	03/20/23	ISS. INITIAL SPECS
9	03/20/23	ISS. INITIAL SPECS
10	03/20/23	ISS. INITIAL SPECS

**GEORGIA811**  
www.Georgia811.com

**FINAL SUBDIVISION PLAT**  
**WHISPER WOODS AT MILTON**  
 IN LAND LOT 847, 848, DISTRICT 2, SECTION 2, FULTON COUNTY, GEORGIA

**IRONSTONE SURVEYING**  
 96 Emerald Bites Drive, Jackson, Georgia 30233  
 Phone 770-367-4514 | Email irons@ironstonesurveying.com



To: Honorable Mayor and City Council Members

From: Steven Krokoff, City Manager DocuSigned by:  
Steven Krokoff

Date: Submitted on August 17, 2023 for the August 21, 2023 Regular Council Meeting

Agenda Item: Consideration of a Resolution of the City of Milton, Georgia Authorizing Issuance of Seven-Day Notice of Termination of Consulting Contract with Vernetta Keith Nuriddin and Termination of Said Contract and Approving Consulting Contract with Lavania White

**Department Recommendation:**  
Approve the resolution as submitted.

**Executive Summary:**  
This resolution authorizes the City to terminate the consulting agreement with Ms. Nuriddin following the necessary issuance of a seven-day notice of termination. Furthermore, it approves and authorizes the Mayor to sign a consulting arrangement with Ms. Lavania White, who brings with her more than a decade of expertise as a poll worker in Fulton County. Ms. White's roles have ranged from poll clerk to poll manager. Having already contributed significantly to our election preparations, we are excited to formalize this consulting arrangement with Ms. White as our consultant.

**Funding and Fiscal Impact:**  
The fiscal impact will be approximately \$12,500 for Ms. White's agreement.

**Legal Review:**  
Ken Jarrard, Jarrard & Davis, LLP – August 17, 2023

**Concurrent Review:**  
None

- Attachments:**
1. Resolution
  2. Termination Letter
  3. PSA for Consultant





STATE OF GEORGIA  
FULTON COUNTY

RESOLUTION NO.

**RESOLUTION OF THE CITY OF MILTON, GEORGIA**  
**AUTHORIZING ISSUANCE OF SEVEN-DAY NOTICE OF TERMINATION OF**  
**CONSULTING CONTRACT WITH VERNETTA KEITH NURIDDIN AND**  
**TERMINATION OF SAID CONTRACT AND APPROVING CONSULTING**  
**CONTRACT WITH LAVANIA WHITE**

**WHEREAS**, the City of Milton (“City”) is a duly authorized municipal corporation with all the powers vested in such municipalities by the Georgia Constitution, general law, and its City Charter;

**WHEREAS**, the City is currently undertaking to conduct its own 2023 municipal election;

**WHEREAS**, to that end, on June 5, 2023, the City retained the services of Vernetta Nuriddin to act as an independent election consultant/contractor via a Professional Services Agreement (“Nuriddin Contract”) to aid the City Election Superintendent;

**WHEREAS**, the City wishes to terminate the Nuriddin Contract under Section VI(A), for convenience;

**WHEREAS**, the City wishes to approve an election consultant contract with Lavania White (“White Contract”); and,

**WHEREAS**, the City otherwise authorizes City staff and the City attorney to issue any required notices and expend any required or necessary fees or funds to fulfill the objectives of this Resolution and the City.

**NOW, THEREFORE BE IT RESOLVED**, the Mayor and Council of the City of Milton, Georgia, that the following is authorized, directed, and approved:

1. The City hereby directs that the seven (7) calendar day notice of termination of the Nuriddin Contract be issued in a form substantially in accord with that attached hereto as Exhibit A;
2. That, following the seventh (7<sup>th</sup>) calendar day of that notice being received, the Nuriddin Contract shall stand terminated;
3. That the City hereby approves the White Contract (Exhibit B); and
4. City staff and the City attorney are hereby authorized to undertake any additional tasks, functions, or actions, to include any necessary or appropriate expenditures of funds or fees, to fulfill the objectives of this Resolution.

**SO RESOLVED**, this \_\_\_\_ day of August, 2023.

\_\_\_\_\_  
Peyton Jamison, Mayor

Attest:

\_\_\_\_\_  
Tammy Lowit, City Clerk

Exhibit

**VIA OVERNIGHT DELIVERY**

Vernetta Keith Nuriddin  
[Redacted]  
[Redacted]

Re: 7-day notice of termination of Professional Services Agreement

Ms. Nuriddin:

On August 21, 2023, the City Council authorized issuance of the 7-day notice of termination letter regarding your Professional Services Agreement (“Agreement”) with the City. Termination is for convenience pursuant to Section VI(A) of the Agreement. Termination shall automatically occur *following* the seventh (7<sup>th</sup>) calendar day of your receipt of this notice. Under Section VI(D), the City is committed to ensuring full payment to you for expenses incurred prior to the date of termination. Please provide documentation of any expenses at your earliest convenience.

The City of Milton requires adherence to Section VI(E), following termination.

Thank you for your service. Best of luck in future endeavors.

[Signature]



**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ (the “Effective Date”), by and between the **CITY OF MILTON, GEORGIA**, a municipal corporation of the State of Georgia, acting by and through its governing authority, the Mayor and City Council (hereinafter referred to as the “City”), and **LAVANIA WHITE** , a Georgia individual/sole proprietor, (hereinafter referred to as the "Consultant"), collectively referred to herein as the "Parties."

**WITNESSETH:**

**WHEREAS**, City desires to retain Consultant to provide certain services in the completion of a Project (defined below); and

**WHEREAS**, City finds that specialized knowledge, skills, and training are necessary to perform the Work (defined below) contemplated under this Agreement; and

**WHEREAS**, Consultant has represented that it is qualified by training and experience to perform the Work; and

**WHEREAS**, Consultant desires to perform the Work as set forth in this Agreement under the terms and conditions provided in this Agreement; and

**WHEREAS**, the public interest will be served by this Agreement; and

**WHEREAS**, Consultant has familiarized herself with the nature and extent of the Agreement, the Project, and the Work, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that may in any manner affect cost, progress or performance of Work.

**NOW, THEREFORE**, for and in consideration of the mutual promises, the public purposes, and the acknowledgements and agreements contained herein, and other good and adequate consideration, the sufficiency of which is hereby acknowledged, the Parties do mutually agree as follows:

**I. SCOPE OF SERVICES AND TERMINATION DATE**

**A. Agreement.** The Agreement shall consist of this Professional Services Agreement and each of the Exhibits hereto, which are incorporated herein by reference, including:

- Exhibit “A”** – Scope of Work
- Exhibit “B”** – Certificate of Insurance
- Exhibit “C”** – *Reserved*
- Exhibit “D”** – Contractor Affidavit
- Exhibit “E”** – *Reserved*
- Exhibit “F”** – *Reserved*

**B. Project Description.** The “Project” at issue in this Agreement is generally described as: provide consulting services for city elections and assist Milton’s Election Superintendent with preparations for conducting the City’s general election in November 2023 and subsequent run-off election, if needed and terminates the day following the deadline for County Certification of Election Returns for the November Municipal General Election per O.C.G.A. §21-2-493(k).

**C. The Work.** The Work to be completed under this Agreement (the “Work”) may include, but shall not be limited to, the work described in the Scope of Work provided in **Exhibit “A”**, attached hereto and incorporated herein by reference. Unless otherwise stated in **Exhibit “A”**, the Work includes all material, labor, insurance, tools, equipment, machinery, water, heat, utilities, transportation, facilities, services and any other miscellaneous items and work necessary to complete the Work. Some details necessary for proper execution and completion of the Work may not be specifically described in the Scope of Work, but they are a requirement of the Work if they are a usual and customary component of the contemplated services or are otherwise necessary for proper completion of the Work.

**D. Schedule, Completion Date, and Term of Agreement.** Consultant understands that time is of the essence of this Agreement and warrants and represents that it will perform the Work in a prompt and timely manner, which shall not impose delays on the progress of the Work. The term of this Agreement (“Term”) shall commence as of the Effective Date, and the Work shall be completed, and the Agreement shall terminate, on or before December 31, 2023 (provided that certain obligations will survive termination/expiration of this Agreement). If the Term of this Agreement is longer than one year, the Parties agree that this Agreement, as required by O.C.G.A. § 36-60-13, shall terminate absolutely and without further obligation on the part of City on December 31 each calendar year of the Term, and further, that this Agreement shall automatically renew on January 1 of each subsequent calendar year absent City’s provision of written notice of non-renewal to Consultant at least five (5) days prior to the end of the then current calendar year. Title to any supplies, materials, equipment, or other personal property shall remain in Consultant until fully paid for by City.

**II. WORK CHANGES**

**A. Change Order Defined.** A “Change Order” means a written modification of the Agreement, signed by representatives of City and Consultant with appropriate authorization.

**B. Right to Order Changes.** City reserves the right to order changes in the Work to be performed under this Agreement by altering, adding to, or deducting from the Work. All such changes shall be incorporated in written Change Orders and executed by Consultant and City. Such Change Orders shall specify the changes ordered and any necessary adjustment of compensation and completion time. If the Parties cannot reach an agreement on the terms for performing the changed work within a reasonable time to avoid delay or other unfavorable impacts as determined by City in its sole discretion, City shall have the right to determine reasonable terms, and Consultant shall proceed with the changed work.

**B. Change Order Requirement.** Any work added to the scope of this Agreement by a Change Order shall be executed under all the applicable conditions of this Agreement. No claim for additional compensation or extension of time shall be recognized, unless contained in a written Change Order duly executed on behalf of City and Consultant.

**C. Authority to Execute Change Order.** The City Manager has authority to execute, without further action of the Mayor or City Council, any number of Change Orders so long as their total effect does not materially alter the terms of this Agreement or materially increase the Maximum Contract Price, as set forth in Section III(B) below. Any such Change Orders materially altering the terms of this Agreement, or any Change Order affecting the price where the Maximum Contract Price (as amended) is in excess of \$50,000, must be approved by resolution of the Mayor and City Council. Amendments shall not result in a variance in price exceeding ten percent of the original contract amount.

### III. COMPENSATION AND METHOD OF PAYMENT

**A. Payment Terms.** City agrees to pay Consultant for the Work performed and costs incurred by Consultant upon certification by City that the Work was actually performed and costs actually incurred in accordance with the Agreement. Compensation for Work performed and, if applicable, reimbursement for costs incurred shall be paid to Consultant upon City’s receipt and approval of invoices, setting forth in detail the services performed and costs incurred, along with all supporting documents requested by City to process the invoice. Invoices shall be submitted on a monthly basis, and such invoices shall reflect costs incurred versus costs budgeted. Any material deviations in tests or inspections performed, or times or locations required to complete such tests or inspections, and like deviations from the Work described in this Agreement shall be clearly communicated to City *before charges are incurred* and shall be handled through Change Orders as described in Section II above. City shall pay Consultant within thirty (30) days after approval of the invoice by City staff.

**B. Maximum Contract Price.** The total amount paid under this Agreement as compensation for Work performed and reimbursement for costs incurred shall not, in any case, exceed **TWELVE-THOUSAND FIVE HUNDRED DOLLARS (\$12,500.00)** (the “Maximum Contract Price”), except as outlined in Section II(C) above, and Consultant represents that this amount is sufficient to perform all of the Work set forth in and contemplated by this Agreement. The compensation for Work performed shall be based upon a flat fee to be paid in three equal payments, commencing August 21, 2023 and ending November 30, 2023. Each installment is to be paid by the 1st of each month beginning September 1, 2023.

C. **Reimbursement for Costs.** The Maximum Contract Price set forth in Section III(B) above includes all costs, direct and indirect, needed to perform the Work and complete the Project, and reimbursement for costs incurred shall be limited as follows:

There shall be no reimbursement for costs.

IV. COVENANTS OF CONSULTANT

A. **Expertise of Consultant; Licenses, Certification and Permits.** Consultant accepts the relationship of trust and confidence established between it and City, recognizing that City’s intention and purpose in entering into this Agreement is to engage an entity with the requisite capacity, experience, and professional skill and judgment to provide the Work in pursuit of the timely and competent completion of the Work undertaken by Consultant under this Agreement. Consultant shall employ only persons duly qualified in the appropriate area of expertise to perform the Work described in this Agreement.

Consultant covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of Consultant by any and all national, state, regional, county, or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Work contracted for under this Agreement. Further, Consultant agrees that it will perform all Work in accordance with the standard of care and quality ordinarily expected of competent professionals and in compliance with all federal, state, and local laws, regulations, codes, ordinances, or orders applicable to the Project, including, but not limited to, any applicable records retention requirements and Georgia’s Open Records Act (O.C.G.A. § 50-18-71, *et seq.*). Any additional work or costs incurred as a result of error and/or omission by Consultant as a result of not meeting the applicable standard of care or quality will be provided by Consultant at no additional cost to City. This provision shall survive termination of this Agreement.

B. **City’s Reliance on the Work.** Consultant acknowledges and agrees that City does not undertake to approve or pass upon matters of expertise of Consultant and that, therefore, City bears no responsibility for Consultant’s Work performed under this Agreement. Consultant acknowledges and agrees that the acceptance of Work by City is limited to the function of determining whether there has been compliance with what is required to be produced under this Agreement. City will not, and need not, inquire into adequacy, fitness, suitability or correctness of Consultant’s performance. Consultant further agrees that no approval of designs, plans, specifications or other work product by any person, body or agency shall relieve Consultant of the responsibility for adequacy, fitness, suitability, and correctness of Consultant’s Work under professional and industry standards, or for performing services under this Agreement in

accordance with sound and accepted professional and industry principles.

**C. Consultant’s Reliance on Submissions by City.** Consultant must have timely information and input from City in order to perform the Work required under this Agreement. Consultant is entitled to rely upon information provided by City, but Consultant shall provide immediate written notice to City if Consultant knows or reasonably should know that any information provided by City is erroneous, inconsistent, or otherwise problematic.

**D. Consultant’s Representative.** Lavana White shall be authorized to act on Consultant’s behalf with respect to the Work as Consultant’s designated representative, provided that this designation shall not relieve either Party of any written notice requirements set forth elsewhere in this Agreement.

**E. Assignment of Agreement.** Consultant covenants and agrees not to assign or transfer any interest in, or delegate any duties of this Agreement, without the prior express written consent of City. As to any approved subcontractors, Consultant shall be solely responsible for reimbursing them, and City shall have no obligation to them.

**F. Responsibility of Consultant and Indemnification of City.** Consultant covenants and agrees to take and assume all responsibility for the Work rendered in connection with this Agreement. Consultant shall bear all losses and damages directly or indirectly resulting to it and/or City on account of the performance or character of the Work rendered pursuant to this Agreement. Consultant shall defend, indemnify and hold harmless City and City’s elected and appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers (individually an “Indemnified Party” and collectively “Indemnified Parties”) from and against any and all claims, suits, actions, judgments, injuries, damages, losses, costs, expenses and liability of any kind whatsoever, including but not limited to attorney’s fees and costs of defense (“Liabilities”), which may arise from or be the result of an alleged willful, negligent or tortious act or omission arising out of the Work, performance of contracted services, or operations by Consultant, any subcontractor, anyone directly or indirectly employed by Consultant or subcontractor or anyone for whose acts or omissions Consultant or subcontractor may be liable, regardless of whether or not the act or omission is caused in part by a party indemnified hereunder; provided that this indemnity obligation shall only apply to the extent Liabilities are caused by or result from the negligence, recklessness, or intentionally wrongful conduct of the Consultant or other persons employed or utilized by the Consultant in the performance of this Agreement. This indemnity obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this provision.

In any and all claims against an Indemnified Party, by any employee of Consultant, its subcontractor, anyone directly or indirectly employed by Consultant or subcontractor or anyone for whose acts Consultant or subcontractor may be liable, the indemnification obligation set forth in this provision shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Consultant or any subcontractor under workers’ or workmen’s compensation acts, disability benefit acts or other employee benefit acts. This obligation to indemnify, defend, and hold harmless the Indemnified Party(ies) shall survive



expiration or termination of this Agreement, provided that the claims are based upon or arise out of actions or omissions that occurred during the performance of this Agreement.

**G. Independent Contractor.** Consultant hereby covenants and declares that it is engaged in an independent business and agrees to perform the Work as an independent contractor and not as the agent or employee of City. Nothing in this Agreement shall be construed to make Consultant or any of its employees, servants, or subcontractors, an employee, servant or agent of City for any purpose. Consultant agrees to be solely responsible for its own matters relating to the time and place the Work is performed and the method used to perform such Work; the instrumentalities, tools, supplies and/or materials necessary to complete the Work; hiring of consultants, agents or employees to complete the Work; and the payment of employees, including benefits and compliance with Social Security, withholding and all other regulations governing such matters. Consultant agrees to be solely responsible for its own acts and those of its subordinates, employees, and subcontractors during the life of this Agreement. There shall be no contractual relationship between any subcontractor or supplier and City by virtue of this Agreement with Consultant. Any provisions of this Agreement that may appear to give City the right to direct Consultant as to the details of the services to be performed by Consultant or to exercise a measure of control over such services will be deemed to mean that Consultant shall follow the directions of City with regard to the results of such services only. It is further understood that this Agreement is not exclusive, and City may hire additional entities to perform the Work related to this Agreement.

Inasmuch as City and Consultant are independent of each other, neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both Parties hereto. Consultant agrees not to represent itself as City’s agent for any purpose to any party or to allow any employee of Consultant to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. Consultant shall assume full liability for any contracts or agreements Consultant enters into on behalf of City without the express knowledge and prior written consent of City.

**I. Insurance.**

- (1) **Requirements:** Consultant shall maintain in effect at its own expense liability insurance as follows: one million dollars (\$1,000,000) of comprehensive general liability insurance (bodily injury and property damage). Consultant shall also maintain at its own expense one million dollars (\$1,000,000) of professional liability insurance. Consultant does not have employees, subcontractor nor any agent acting on its behalf. **See Exhibit B.**
- (2) **Deductibles and Self-Insured Retentions:** Any deductibles or self-insured retentions must be declared to and approved by City in writing so that City may ensure the financial solvency of Consultant; self-insured retentions should be included on the certificate of insurance.
- (3) **Other Insurance Provisions:** Each policy shall contain, or be endorsed to contain, the following provisions respectively:
  - (a) **General Liability, Automobile Liability and (if applicable) Umbrella Liability Coverage.**

- (i) **Additional Insured Requirement.** City and City’s elected and appointed officials, officers, boards, commissioners, employees, representatives, consultants, servants, agents and volunteers (individually “Insured Party” and collectively “Insured Parties”) shall be named as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, leased, or used by Consultant; automobiles owned, leased, hired, or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Insured Parties. Nothing contained in this section shall be construed to require the Consultant to provide liability insurance coverage to any Insured Party for claims asserted against such Insured Party for its sole negligence.
  - (ii) **Primary Insurance Requirement.** Consultant’s insurance coverage shall be primary noncontributing insurance as respects to any other insurance or self-insurance available to the Insured Parties. Any insurance or self-insurance maintained by the Insured Parties shall be in excess of Consultant’s insurance and shall not contribute with it.
  - (iii) **Reporting Requirement.** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Insured Parties.
  - (iv) **Separate Coverage.** Coverage shall state that Consultant’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to limits of insurance provided.
  - (v) **Defense Costs/Cross Liability.** Coverage shall be provided on a “pay on behalf” basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion.
  - (vi) **Subrogation.** The insurer shall agree to waive all rights of subrogation against the Insured Parties for losses arising from Work performed by Consultant for City.
- (4) Acceptability of Insurers: The insurance to be maintained by Consultant must be issued by a company licensed or approved by the Insurance Commissioner to transact business in the State of Georgia. Such insurance policies shall be placed with insurer(s) with an A.M. Best Policyholder’s rate of no less than “A-” and with a financial rating of Class VII or greater. The Consultant shall be responsible for any delay resulting from the failure of its insurer to provide proof of coverage in the proscribed form.
- (5) Verification of Coverage: Consultant shall furnish to City for City approval

certificates of insurance and endorsements to the policies evidencing all coverage required by this Agreement prior to the start of work. Without limiting the general scope of this requirement, Consultant is specifically required to provide an endorsement naming City as an additional insured when required. The certificates of insurance and endorsements for each insurance policy are to be on a form utilized by Consultant's insurer in its normal course of business and are to be signed by a person authorized by that insurer to bind coverage on its behalf, unless alternate sufficient evidence of their validity and incorporation into the policy is provided. City reserves the right to require complete, certified copies of all required insurance policies at any time. Consultant shall provide proof that any expiring coverage has been renewed or replaced prior to the expiration of the coverage.

- (6) Claims-Made Policies: Consultant shall extend any claims-made insurance policy for at least six (6) years after termination or final payment under the Agreement, whichever is later, and have an effective date which is on or prior to the Effective Date.
- (7) City as Additional Insured and Loss Payee: City shall be named as an additional insured and loss payee on all policies required by this Agreement, except City need not be named as an additional insured and loss payee on any Professional Liability policy or Workers' Compensation policy.

**H. Records, Reports and Audits.**

- (1) Records:
  - (a) Books, records, documents, account ledgers, data bases, and similar materials relating to the Work performed for City under this Agreement ("Records") shall be established and maintained by Consultant in accordance with applicable law and requirements prescribed by City with respect to all matters covered by this Agreement. Except as otherwise authorized or required, such Records shall be maintained for at least three (3) years from the date that final payment is made to Consultant by City under this Agreement. Furthermore, Records that are the subject of audit findings shall be retained for three (3) years or until such audit findings have been resolved, whichever is later.
  - (b) All costs claimed or anticipated to be incurred in the performance of this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.
- (2) Reports and Information: Upon request, Consultant shall furnish to City any and all Records in the form requested by City. All Records provided electronically must be in a format compatible with City's computer systems

and software.

- (3) Audits and Inspections: At any time during normal business hours and as often as City may deem necessary, Consultant shall make available to City or City's representative(s) for examination all Records. Consultant will permit City or City's representative(s) to audit, examine, and make excerpts or transcripts from such Records. Consultant shall provide proper facilities for City or City's representative(s) to access and inspect the Records, or, at the request of City, shall make the Records available for inspection at City's office. Further, Consultant shall permit City or City's representative(s) to observe and inspect any or all of Consultant's facilities and activities during normal hours of business for the purpose of evaluating Consultant's compliance with the terms of this Agreement. In such instances, City or City's representative(s) shall not interfere with or disrupt such activities.

**I. Ethics Code; Conflict of Interest.** Consultant agrees that it shall not engage in any activity or conduct that would result in a violation of the City of Milton Code of Ethics or any other similar law or regulation. Consultant certifies that to the best of its knowledge no circumstances exist which will cause a conflict of interest in performing the Work. Should Consultant become aware of any circumstances that may cause a conflict of interest during the Term of this Agreement, Consultant shall immediately notify City. If City determines that a conflict of interest exists, City may require that Consultant take action to remedy the conflict of interest or terminate the Agreement without liability. City shall have the right to recover any fees paid for services rendered by Consultant when such services were performed while a conflict of interest existed if Consultant had knowledge of the conflict of interest and did not notify City within five (5) business days of becoming aware of the existence of the conflict of interest.

Consultant and City acknowledge that it is prohibited for any person to offer, give, or agree to give any City employee or official, or for any City employee or official to solicit, demand, accept, or agree to accept from another person, a gratuity of more than nominal value or rebate or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor. Consultant and City further acknowledge that it is prohibited for any payment, gratuity, or offer of employment to be made by or on behalf of a sub-consultant under a contract to the prime Consultant or higher tier sub-consultant, or any person associated therewith, as an inducement for the award of a subcontract or order.

**J. Confidentiality.** Consultant acknowledges that it may receive confidential information of City and that it will protect the confidentiality of any such confidential information and will require any of its subcontractors, consultants, and/or staff to likewise protect such confidential information. Consultant agrees that confidential information it learns or receives or such reports, information, opinions or conclusions that Consultant creates under this Agreement shall not be made available to, or discussed with, any individual or organization, including the news media, without prior written approval of City. Consultant shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City information whether specifically deemed confidential or not.

Consultant acknowledges that City's disclosure of documentation is governed by Georgia's Open Records Act, and Consultant further acknowledges that if Consultant submits records containing trade secret information, and if Consultant wishes to keep such records confidential, Consultant must submit and attach to such records an affidavit affirmatively declaring that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10, and the Parties shall follow the requirements of O.C.G.A. § 50-18-72(a)(34) related thereto.

**K. Meetings.** Consultant is required to meet with City's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the Term of this Agreement at no additional cost to City. Meetings will occur as problems arise and will be coordinated by City. City shall inform Consultant of the need for a meeting and of the date, time and location of the meeting at least three (3) full business days prior to the date of the meeting. Face-to-face meetings are desired. However, at Consultant's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings, two consecutive missed or rescheduled meetings, or failure to make a good faith effort to resolve problems, may result in termination of this Agreement for cause.

**L. Ownership of Work.** All reports, designs, drawings, plans, specifications, schedules, work product and other materials, including, but not limited to, those in electronic form, prepared or in the process of being prepared for the Work to be performed by Consultant ("Materials") shall be the property of City, and City shall be entitled to full access and copies of all Materials in the form prescribed by City. Any Materials remaining in the hands of Consultant or subcontractor upon completion or termination of the Work shall be delivered immediately to City whether or not the Project or Work is commenced or completed; provided, however, that Consultant may retain a copy of any deliverables for its records. Consultant assumes all risk of loss, damage or destruction of or to Materials. If any Materials are lost, damaged or destroyed before final delivery to City, Consultant shall replace them at its own expense. Any and all copyrightable subject matter in all Materials is hereby assigned to City, and Consultant agrees to execute any additional documents that may be necessary to evidence such assignment.

**M. Nondiscrimination.** In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, Consultant agrees that, during performance of this Agreement, Consultant, for itself, its assignees and successors in interest, will not discriminate against any employee or applicant for employment, any subcontractor, or any supplier because of race, color, creed or belief, political affiliation, national origin, gender, age or disability. In addition, Consultant agrees to comply with all applicable implementing regulations and shall include the provisions of this paragraph in every subcontract for services contemplated under this Agreement.

**V. COVENANTS OF CITY**

**A. Right of Entry.** City shall provide for right of entry for Consultant and all necessary equipment as required for Consultant to complete the Work; provided that Consultant shall not unreasonably encumber the Project site(s) with materials or equipment.

**B. City's Representative.** Steven Krokoff, City Manager shall be authorized to act on City's behalf with respect to the Work as City's designated representative on this Project; provided that any changes to the Work or the terms of this Agreement must be approved as provided in Section II above.

## VI. TERMINATION

**A. For Convenience.** City may terminate this Agreement for convenience at any time upon providing written notice thereof at least seven (7) calendar days in advance of the termination date. If the City terminates this Agreement for convenience, it will be responsible for the scope of Work in its entirety and will hold Consultant harmless for

**B. For Cause.** Consultant and City reserve the right to terminate this Agreement for cause.. In the event of Consultant's breach or default under this Agreement, City may terminate this Agreement for cause. City shall give Consultant at least seven (7) calendar days' written notice of its intent to terminate the Agreement for cause and the reasons therefor. If Consultant fails to cure the breach or default within that seven (7) day period, or otherwise remedy the breach or default to the reasonable satisfaction of City, then City may (a) in writing, terminate the Agreement effective the date Consultant received written termination, and/or (b) pursue any other remedy available, at law or in equity, due to City for such default. Consultant may terminate this Agreement for cause only in the event of City's failure to pay Consultant within thirty (30) calendar days of Consultant providing City with notice of a delinquent payment and an opportunity to cure.

**C. Statutory Termination.** In compliance with O.C.G.A. § 36-60-13, this Agreement shall be deemed terminated as provided in I(D) of this Agreement. Further, this Agreement shall terminate immediately and absolutely at such time as appropriated or otherwise unobligated funds are no longer available to satisfy the obligation of City.

**D. Payment Upon Termination.** Upon termination, City shall provide for payment to Consultant for services rendered and, where authorized, expenses incurred prior to the termination date; provided that, where this Agreement is terminated for cause.

**E. Requirements Upon Termination.** Upon termination, Consultant shall: (1) promptly discontinue all services, cancel as many outstanding obligations as possible, and not incur any new obligations, unless the City directs otherwise; and (2) promptly deliver to City all data, drawings, reports, summaries, and such other information and materials as may have been generated or used by Consultant in performing this Agreement, whether completed or in process, in the form specified by City.

**F. Reservation of Rights and Remedies.** The rights and remedies of City and Consultant provided in this Article are in addition to any other rights and remedies provided under this Agreement or at law or in equity.

## VII. MISCELLANEOUS

**A. Entire Agreement.** This Agreement, including any exhibits hereto, constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Agreement not contained in this Agreement shall be valid or binding. This Agreement may be modified or amended only by a written Change Order (as provided in Section II above) or other document signed by representatives of both Parties with appropriate authorization.

**B. Successors and Assigns.** Subject to the provision of this Agreement regarding

assignment, this Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties.

**C. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia without regard to choice of law principles. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the rules, regulations, statutes and laws of the State of Georgia will control. Any action or suit related to this Agreement shall be brought in the Superior Court of Fulton County, Georgia, or the U.S. District Court for the Northern District of Georgia – Atlanta Division, and Consultant submits to the jurisdiction and venue of such court.

**D. Captions and Severability.** All headings herein are intended for convenience and ease of reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Agreement, or in any way affect this Agreement. Should any article(s) or section(s) of this Agreement, or any part thereof, later be deemed illegal, invalid or unenforceable by a court of competent jurisdiction, the offending portion of the Agreement should be severed, and the remainder of this Agreement shall remain in full force and effect to the extent possible as if this Agreement had been executed with the invalid portion hereof eliminated, it being the intention of the Parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions that may for any reason be hereafter declared in valid.

**E. Business License.** Prior to commencement of the Work to be provided hereunder, Consultant shall apply to City for a business license, pay the applicable business license fee, and maintain said business license during the Term of this Agreement, unless Consultant provides evidence that no such license is required.


**F. Notices.**

- (1) **Communications Relating to Day-to-Day Activities.** All communications relating to the day-to-day activities of the Work shall be exchanged between City’s Representative (named above) for City and Consultant’s Representative (named above) for Consultant.
  
- (2) **Official Notices.** All other notices, requests, demands, writings, or correspondence, as required by this Agreement, shall be in writing and shall be deemed received, and shall be effective, when: (1) personally delivered, or (2) on the third day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (3) upon actual delivery when sent via national overnight commercial carrier to the Party at the address given below, or at a substitute address previously furnished to the other Party by written notice in accordance herewith.

**NOTICE TO CITY** shall be sent to:

Procurement Manager  
City of Milton, Georgia  
2006 Heritage Walk  
Milton, Georgia 30004

NOTICE TO CONSULTANT shall be sent to:

Lavania White  


**G. Waiver of Agreement.** No failure by City to enforce any right or power granted under this Agreement, or to insist upon strict compliance by Consultant with this Agreement, and no custom or practice of City at variance with the terms and conditions of this Agreement shall constitute a general waiver of any future breach or default or affect City’s right to demand exact and strict compliance by Consultant with the terms and conditions of this Agreement. Further, no express waiver shall affect any Term or condition other than the one specified in such waiver, and that one only for the time and manner specifically stated.

**H. Survival.** All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, confidentiality obligations and insurance maintenance requirements.

**I. No Third-Party Rights.** This Agreement shall be exclusively for the benefit of the Parties and shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action or other right.

**J. Sovereign Immunity; Ratification.** Nothing contained in this Agreement shall be construed to be a waiver of City’s sovereign immunity or any individual’s qualified, good faith or official immunities. Ratification of this Agreement by a majority of the Mayor and City Council shall authorize the Mayor to execute this Agreement on behalf of City.

**K. No Personal Liability.** Nothing herein shall be construed as creating any individual or personal liability on the part of any of City’s elected or appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys or volunteers. No such individual shall be personally liable to Consultant or any successor in interest in the event of any default or breach by City or for any amount which may become due to Consultant or successor or on any obligation under the terms of this Agreement. Likewise, Consultant’s performance of services under this Agreement shall not subject Consultant’s individual employees, officers, or directors to any personal contractual liability, except where Consultant is a sole proprietor. The Parties agree that, except where Consultant is a sole proprietor, their sole and exclusive remedy, claim, demand or suit for contractual liability shall be directed and/or asserted only against Consultant or City, respectively, and not against any elected or appointed official, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers.



**L. Counterparts; Agreement Construction and Interpretation.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Consultant represents that it has reviewed and become familiar with this Agreement and has notified City of any discrepancies, conflicts or errors herein. In the event of a conflict in the terms of this Agreement and/or the exhibits attached hereto, the terms most beneficial to City shall govern. The Parties hereto agree that, if an ambiguity or question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions of the Agreement. In the interest of brevity, the Agreement may omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. Words or terms used as nouns in the Agreement shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires contrary meaning.

**M. Force Majeure.** Neither City nor Consultant shall be liable for its respective non-negligent or non-willful failure to perform or shall be deemed in default with respect to the failure to perform (or cure a failure to perform) any of its respective duties or obligations under this Agreement or for any delay in such performance due to: (i) any cause beyond its respective reasonable control; (ii) any act of God; (iii) any change in applicable governmental rules or regulations rendering the performance of any portion of this Agreement legally impossible; (iv) earthquake, fire, explosion or flood; (v) strike or labor dispute, excluding strikes or labor disputes by employees and/or agents of CONSULTANT; (vi) delay or failure to act by any governmental or military authority; or (vii) any war, hostility, embargo, sabotage, civil disturbance, riot, insurrection or invasion. In such event, the time for performance shall be extended by an amount of time equal to the period of delay caused by such acts, and all other obligations shall remain intact.

**N. Material Condition.** Each term of this Agreement is material, and Consultant’s breach of any term of this Agreement shall be considered a material breach of the entire Agreement and shall be grounds for termination or exercise of any other remedies available to City at law or in equity.



**EXHIBIT “A”**

**Scope of Work**

Assist Milton’s Election Superintendent with preparations for conducting our general election in November 2023 and subsequent run-off election, if needed. This includes providing support for (some functions may no longer be applicable):

- Creating an election critical event calendar and project plan;
- Establishing an elections budget;
- Developing policies and procedures for elections processes;
- Developing security policies and protocols concerning election processes and equipment;
- Developing continuity of operations plans and policies;
- Determining the sufficient number of poll workers needed;
- Crafting job descriptions for, recruiting, and hiring poll workers;
- Training and certifying poll workers;
- Reviewing all directives, advisories, memoranda, correspondence, and materials issued by the Secretary of State and advise any action the city should take;
- Recommending equipment purchases and preparation of bids requisitions for supplies and equipment;
- Polling location layout and setup;
- Preparation of the election ballot, including printing and production oversight;
- Recommendation and implementation of election management software, if needed;
- Logic and accuracy testing of voting equipment, if necessary;
- Publishing all legal notices, as appropriate;
- Assessing and mitigating identified risks;
- Processing, evaluating, and reporting election results.

Most of the work can be handled remotely, but onsite support would be required for poll worker training, determining polling location layout, first day of advanced voting, and Election Day.

**EXHIBIT "B"**

**EXHIBIT “C”**

*Reserved*

**EXHIBIT "D"**  
**PRIVATE EMPLOYER EXEMPTION AFFIDAVIT**  
**O.C.G.A § 13-10-91**

STATE OF GEORGIA  
COUNTY OF FULTON

By executing this Affidavit, the undersigned private employer verifies that it is exempt from compliance with O.C.G.A. § 36-60-6, stating affirmatively that the individual, firm or corporation employees zero (0) employees and therefore, is not required to register with and/or utilize the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established by O.C.G.A. § 13-10-90.

I hereby declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Signature of Exempt Private Employer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Exempt Private Employer

Subscribed and sworn before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public

[NOTARY SEAL]

My Commission Expires: \_\_\_\_\_

**A COPY OF A VALID DRIVER'S LICENSE IS REQUIRED TO BE SUBMITTED WITH THIS FORM**

THIS PART TO BE FILLED OUT BY THE COUNTY:

DL Info:  
State: \_\_\_\_\_  
\_\_\_\_\_

Exp Date:

Verified by:

\_\_\_\_\_  
CC Procurement Office

\_\_\_\_\_

Date

**EXHIBITS “E” AND “F”**

*Reserved*